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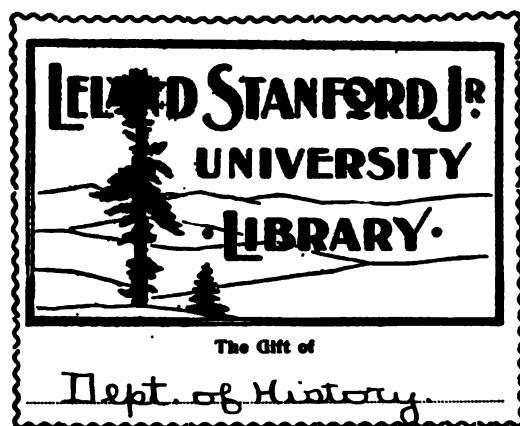
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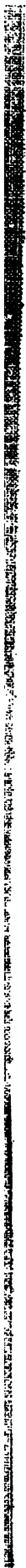
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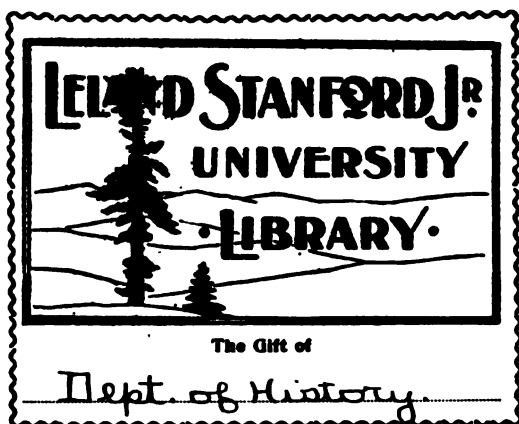


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THE
ACTS AND RESOLVES,
PUBLIC AND PRIVATE,
OF THE
PROVINCE OF THE MASSACHUSETTS BAY:

TO WHICH ARE PREFIXED
THE CHARTERS OF THE PROVINCE.
WITH
HISTORICAL AND EXPLANATORY NOTES, AND AN APPENDIX.

PUBLISHED UNDER CHAPTER 87 OF THE RESOLVES OF THE GENERAL COURT
OF THE COMMONWEALTH FOR THE YEAR 1867.

VOLUME VI.,
BEING VOLUME I. OF THE APPENDIX.

CONTAINING
PRIVATE ACTS, 1692-1780.

BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS.
18 POST OFFICE SQUARE.
1896.

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P R E F A C E .

The following are extracts from a Preface prepared by the Editor of the Province Laws, Mr. ABNER C. GOODELL, Jr., and are here published by the order and authority of the Governor (acting) and Council:—

"By chapter 43 of the resolves of the year 1865 commissioners were appointed 'to prepare for publication a complete copy of the statutes and laws of the Province and State of Massachusetts Bay, from the time of the province charter to the adoption of the Constitution of the Commonwealth, including all the sessions acts, private and public, general and special, temporary and perpetual, passed from time to time by the General Court; all incorporations of towns and parishes, and all other legislative acts of legal or historical importance appearing on the records of the General Court, with suitable marginal references to the statutes and judicial decisions of the Province and Commonwealth, the orders of the king in council, and to such other authorities as, in their opinion, may enhance the value and usefulness of the work; and to append to the same a complete index.' This work was finished before the end of the next year.

"The resolve did not provide for printing the materials thus collected; but two years later, by the resolve of 1867, chap. 87, authority was given for the printing of one volume during that year, and a new commission was thereupon issued, under which the Commissioners began their work in March, 1868, finishing the first volume in March, 1869.

"The work has since continued to the ninth volume, which is partly done.

"Practically, this ninth volume is the tenth, since the entire first edition of volume II. was destroyed in the great fire of November, 1872, and the work had to be done over again and a new index made.

"By the province charter the governor and the great and general court for the time being were granted full power 'to make ordaine and establish all manner of wholesome and reasonable Orders Laws Statutes and Ordinances Directions and Instructions either with penalties or without' not repugnant to the laws of England. Obedience, however, was exacted only to such of these as should be made and published under the seal of the province. This excluded the whole body of legislation except the formally engrossed acts, which, in point of numbers, were a very inconsiderable portion of the whole. Of the resolves and orders thus excluded more will be said further on, but of the one hundred and two private acts passed before the Constitution, all of which, save three, are herein printed (and the substance of those three is known), the following comments are offered as of possible interest and value.

"Notwithstanding the requirement of the charter, that 'the said Orders Laws Statutes and Ordinances' be, by the first opportunity, transmitted to the Privy Council, under the seal of the province, the practice, except in special instances, seems to have been to transmit only the public acts. This appears by the letter of Secretary Willard, in 1718,* to Mr. Popple, secretary of the Board of Trade, as well as by the omission of the titles of private acts in the lists of acts laid before the Privy Council, and by the references, occasionally found in the records of the Lords of Trade and of the Privy Council, to the neglect to send the private acts.

"From December, 1723, to June, 1742, no private acts were passed. This was owing to a royal instruction dated March 29, 1723, directed to Governor Shute, but received by Lieutenant-Governor Dummer before the first session of the assembly of 1724, forbidding 'assent to any private act until proof be made before you in council, and entered in the council books, that public notification was made of the parties' intention to apply for such act, in the several parish churches where the premises in question 'lie, for three Sundays, at least, successively, before any such act shall be brought into the assembly.' The same instruction forbade the passage of 'any private act without a clause inserted therein suspending the execution' thereof until the royal approbation 'shall be had thereof.' This instruction was renewed to all succeeding governors.

* Province Laws, vol. II., p. 94.

"Another instruction, issued first to Governor Burges, September 8, 1715, required the governor to take care that no private act be passed in which there was not a saving to the king and his successors, 'all Bodys politick and corporate and of all other persons except such as are mentioned in the said Act.' This instruction, likewise, was renewed to succeeding governors, but it was clearly not regarded, nor was the neglect to observe it animadverted upon by the Lords of Trade or the Privy Council until the first private act passed after the above instruction to Governor Shute was laid before the latter board for their consideration. This was act number 80; and upon representation of the Lords of Trade of the failure, in this instance, to comply with the above-mentioned instructions, the act was disallowed by the Privy Council, May 28, 1746. In like manner private acts numbers 87, 88, 90, 94 and 97 were disallowed for want of the suspending clause, although other reasons were given; such as, that numbers 90 and 97 were contrary to law, and that in number 94 the legislature unwarrantably assumed the functions of a court of equity.

"Act number 89 was certified for transmission, June 18, 1761; delivered to the clerk of the Privy Council, in waiting, on the nineteenth of September; referred to the committee of the Privy Council, for plantation affairs, on the twenty-fourth; considered by them and referred to the Lords of Trade, etc., on the twenty-fifth; ordered to be sent to Sir Matthew Lamb, counsel for the Board, for his opinion in point of law, January 13, 1762, who, on the twenty-second of May, reported 'no objection;' and, thereupon, on the ninth of June, the act was 'ordered to lie.' No subsequent action upon it has been discovered, and therefore, presumably, it took effect by lapse of time.

"Acts numbers 91, 92, 93, 95, 96, 98, 99 and 100 were all laid before the Privy Council, but neither appears to have been formally allowed or disallowed. The first three were certified for transmission, March 30, 1763; referred to the Commissioners for Trade and Plantations on the ninth of July; read by the Board on the fifteenth, when they were sent, in regular course, to Sir Matthew Lamb, whose report thereon, dated the twenty-second of September, was read and considered on the fourteenth of October. Both in this report and in the list of acts considered on that occasion these private acts were omitted. Much the same course was undoubtedly taken with the other private acts last enumerated, and they were probably not further acted upon.

Numbers 101 and 102, having been passed during the Revolution, were of course never sent to England.

"The only other private acts which were not disallowed are those relating to the dissolution, or for declaring the nullity, of the marriage contract.

"Acts numbers 81, 82 and 83 were considered together by the Lords of Trade. The first two of them were declared by Sir Matthew Lamb—to whom they were sent, in regular course, for his opinion—to be 'the first of their kind that he ever saw in the colonies or elsewhere.' Sir Matthew's report was dated December 18, 1756, and was read at the Board on the twenty-second of March following, when the acts were first considered. They were again considered, May 12, 1758, by the Board, who, on the thirtieth, drew up their representation to the Privy Council. The Lords concurred in Sir Matthew's opinion that all these acts were 'highly improper;' and, in their representation to the Privy Council, they declared that the governor 'ought not, upon any consideration, to have given his assent to them' without the suspending clause required by his instructions; and they proposed that, 'as it may be a matter of doubt whether the legislature of the province . . . has a power of passing laws of this nature, and, consequently, whether these acts are not of themselves null and void, . . . this point be referred to the consideration of His Majesty's Attorney- and Solicitor-General, to the end that proper instructions may be formed for the governor of this and other . . . colonies, to regulate their conduct in the like cases whenever they shall occur.' This representation or report was signed at Whitehall, June 6, 1758. No report by the law officers of the crown on the point submitted to them has been discovered; but as no signification that these acts were disallowed appears in our public archives, and as other similar acts continued to be passed as late as April, 1780, the conclusion appears inevitable that they were suffered to go into operation, *sub silentio*. This conjecture is rendered more probable by the circumstance that Governor Shirley was present,* by invitation, to consult with the Lords of Trade at their meeting on May 12, 1758, and that before the arrival of his successor, Governor Pownall, two similar acts (numbers 84 and 85) were passed, which do not appear to have been disallowed, although they were duly transmitted to the Privy Council.

* See Province Laws, vol. III., p. 815.

"The province law of 1754-55, chapter 15, for enforcing the decrees and orders of the Governor and Council in matrimonial cases, had been passed January 8, 1755, but that board continued to decline to decree a dissolution of the bonds of matrimony in cases of cruelty or of adultery. Accordingly, in the second session of the legislature which enacted private act, number 86, for dissolving the marriage of Daniel and Mary McCarthy, a bill was passed in the House empowering the Governor and Council to grant a license to marry again to the 'innocent or aggrieved party,' who had been separated by a divorce *a mensâ et thoro*. This bill was read in the Council, August 24, 1757, but there was no vote of concurrence. This, of course, was while the provincial divorce-acts of the preceding two years were lying before the Lords of Trade for their consideration.

"The subject of legislative divorces was largely debated about that time, and William Bollan, son-in-law of Governor Shirley, and then agent of the province, in England, a person of various learning, as well as an accomplished lawyer, has left some account of the difficulties he encountered in his diligent and arduous pursuit of this subject, in the libraries and in the records of the ecclesiastical courts in London.

"The Editor has reserved his comments upon the subject of legislative resolves for this conclusion of the preface. However slight the distinction between a bill and a resolve may be according to present practice, — a distinction hardly definable if we follow the received authorities,* — it appears from what has been already shown in this preface that by the province charter, the impress of the province seal, which was affixed to acts exclusively, was a necessary badge of authority, and hence the propriety of limiting the office of resolves, generally, to administrative matters, in which they served to express the consent of the legislature, rather than to prescribe or command action. A large number of resolves are merely subsidiary to other formal legislation, or ancillary to the proceedings of the judicial courts. Of the former, are resolves for the imprinting and issuing of bills of public credit; for abating taxes and imposts; for granting salaries; votes for supplying the treasury; and appropriations for a variety of objects sanctioned by law. Of the latter, are resolves for altering the terms of the courts; aiding in the settlement and distribution of estates; and ordering sales of the estates of deceased persons or persons under disability; granting

* See Cushing's "Law and Practice of Legislative Assemblies," paragraphs 752 and 2403, and citations.

relief in cases of failure to enter appeals and reviews, or for correcting irregularities in the service of writs, and in the levy of executions, where the powers of the judiciary were inadequate.

"Of a higher class of resolves are those declaratory of the law; for forming treaties; issuing proclamations for fasts and thanksgivings; sending envoys and preparing letters to other governments; adopting addresses to the crown; defining the functions of the respective branches of the legislature, and settling questions of parliamentary law and practice.

"The administrative resolves comprise a great variety; such as those authorizing the building of highways, bridges, and ferries, meeting-houses and schoolhouses, forts and blockhouses; establishing the boundaries of the province, and of towns and counties; electing public officers; providing arms and munitions of war, and furnishing snow-shoes for the militia.

"The resolves most difficult to trace in their operation are those which were passed in aid of military forces in actual service. The governor, as commander-in-chief, having the disposal of all grants for this purpose, and not being accountable except through the commissaries and boards of war appointed by him, it is sometimes impossible to determine whether a given resolve of this class was actually operative,—the mere vote, by the House, of approval of a military enterprise being often taken as sufficient warrant for the application of money therefor by the Governor and Council, without the record of the concurrence of the upper branch. A similar difficulty arises in determining whether a resolve actually became operative in cases where its operation depended upon the election of the beneficiary.*

"Besides these classes there was a series of resolves having all the force of acts, not from their form or intrinsic power, but because of a provision of the charter, authorizing the governor and general assembly 'to make or passe any Grant of Lands . . . in such manner as heretofore they might have done.' These grants were expressly ordained 'to be and continue for ever of full force and effect without our further Approbation or Consent.' This provision, therefore, dispensed with the necessity of the formalities required in the passage of acts, including the transmitting them to the Privy Council for the royal allowance or disallowance.

* See Little v. Frost, 3 Mass. 106, 116.

"Hence it happens that not less than one hundred and thirty-seven towns in Massachusetts have no other foundation than grants by the general court, in the form of votes, orders or resolves which were not included with the printed acts. Undoubtedly, this clause in the charter was inserted to cure beyond dispute or challenge the alleged defects of title which had been availed of by Andros to reap a harvest of heavy fees for confirming grants which, he claimed, should have been regularly made by deed, under the corporate seal, and not by vote of the legislature.

"Divers attempts were made from time to time to prevent or discourage applications to the legislature for private relief. Thus, in 1720, a resolve * passed the Council for fixing a limit of twelve months for the presentation of petitions for leave to enter appeals from the judgment of the Superior Court; but the House refused to concur. Again, in 1736, an act † was passed for awarding costs to respondents in the case of vexatious petitions, and limiting the time for the presentation of all private petitions to fourteen days from the beginning of the session.

"The resolves in this edition embrace all joint or concurrent proceedings of the three branches of the legislature, except merely interlocutory or parliamentary votes and orders; such as those for passing bills through their several stages; for appointment of commissioners, and of temporary legislative committees, and for the election of councillors and other public officers; and messages between the several branches of the legislature, and commissions and instructions to agents and the guardians of Indians, etc.

"As a rule, when a vote of the House recommending or contemplating executive action was acted upon by the Council, the vote has been included, as a complete act of legislation, although no formal vote of concurrence may have been found; but in other cases, where, upon the passage of such vote by the House, the Council has taken independent action, not professedly in compliance with the vote of the House, the proceeding has been treated as the executive act of the Governor and Council; thus, where, in the case of Maule's objectionable book 'Truth Held Forth and Maintained,' the House prayed 'that the premises may be inquired into, and some suitable testimony be

* Mass. Archives, vol. 2, pp. 78, 80.

† Province Laws, 1735-36, chapter 20.

borne against the author and his evil work,' and the Governor and Council ordered * Maule's books to be seized, the action is deemed not properly legislative.

"The charter makes no distinction between acts and resolves in the matter of the governor's consent or approbation, but expressly requires that it be 'signified and declared in Writeing' in all cases; yet, by far the larger number of the resolves appear without his signature. Apparently in continuation of the practice under the colony charter and during the time of Andros's administration the Governor and Council began by directing legislation, and the House assisted. Hence, in cases of departure from this practice, where bills originating in the House were concurred in and sent back, the governor's signature appears in the secretary's record, or in the council minute-book; but gradually the practice became established—at least as far as the Editor's observation has extended—to regard the secretary's entry of the consent of the governor as conclusive.

"In preparing for the press this edition of resolves recourse has been had, whenever practicable, to the original draught. Usually the preamble prefixed by the secretary has also been printed, especially when it contained the substance of the petition or report upon which the resolve was based, and which could not be found in the archives.

"Resolves are marked as 'passed' where they have been concurred in by both branches, but where the governor's signature does not anywhere appear save by inference,—the fact that the resolve became operative being shown by extrinsic evidence. Where the governor's 'consent or approbation' appears by his written signature affixed to the original, or in the secretary's books, or is minuted of record by the secretary, the resolve is marked 'approved;' and in all cases the date of the act of approval is given as accurately as possible.

"Not infrequently, a difference will be noticed between the original resolves in the archives and the secretary's record thereof. This arises from the practice of the secretary of making up his record-entries according to his own judgment, from the original votes and other data before him. Under the same liberal conception of his duties the secretary did not scruple sometimes to compress, for his record, two or more distinct original votes or resolves into a single paragraph. In such cases the Editor has, when practicable, separated the secretary's

* Mass. Archives, vol. 11, p. 111.

compilation into its component parts, thus making two or more resolves in place thereof.

"From the beginning of their work the Commissioners agreed that a grouping according to the localities referred to, of all votes of the general court granting lands, establishing precincts and parishes, and determining territorial boundaries, would be more convenient for the public than printing the same in chronological order by which they would be dispersed throughout the entire series of volumes. They therefore adopted the plan, hitherto followed, of printing the titles of these several resolves in their chronological sequence, postponing the full text of the resolves to a separate volume in which it was the intention to bring together all such resolves as are mutually related, so that the reader will have before him a full history of the legislation respecting each grant of territory, each town and precinct, and of every contest respecting boundaries."

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PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SECOND DAY OF MARCH, A.D. 1692-3.

[No. 1.]

AN ACT FOR THE GRANTING UNTO JANE KIND WIDOW A VOID PEICE
OF LAND IN BOSTON BELONGING UNTO THE ESTATE OF HER SON
JOHN KIND, DECED.

WHEREAS it has been Represented and made appear unto this Court That the dwelling house of John Kind late of Boston, Butcher deced. intestate situate at the Northerly End of said Town was some time since consumed by Fire, and the ground whereon it stood with the Land and wharffe adjoyning lying void and unimproved, the said deced leauing Eight Orphants most of them very Small; who for about the space of three years since their ffather's death have been maintained and Educated at the charge of their Grandmother Jane Kind of Boston widow, who was granted Administration of the Estate of the s^d deced. and is considerably in disburse for payment of his Funeral, debts which he Owed and Education of the s^d Children far more than what his goods did amount unto, and the charge thereof daily increasing upon her.*

Be it therefore Enacted by the Governo^r Council and Representatives in General Court assembled and by the Authority of the same,

That the said Land and wharffe be apprized at the due value thereof by three sufficient freeholders within said Town upon their Oaths to be nominated by the Selectmen in said Town and Sworn before two Justices of the Peace And the said Land and wharffe is hereby granted unto the said Jane Kind widow her heires and assignes for ever, She giving sufficient Security unto the Judge for Probate of Wills and granting of Adm^{con} within the County of Suffolke, to be accountable for the full value thereof unto the said Children according to Law. Saueing to y^e Credito^r if any be y^e payment of their Just debts//
[Passed March 7, 1692-3.]

* The last word of the preamble is marked with an asterisk, as if referring to an amendment or additional clause, but no such clause is with the bill and none has been found elsewhere which seemed to belong in this place.

No engrossment.
From the bill, in
Mass. Archives,
xlv., 205, 206.
Province Laws,
i., 50, note.
Mass. Archives,
xvi., 475, 476.
Legislative Records of the
Council, vi., 272.
Suffolk Probate
Files, 1739. Suffolk Registry of
Deeds, lib. 13,
fol. 438-440; lib.
16, fol. 408-410;
lib. 22, fol. 424-
428. Whit-
more's Copp's-
Hill Epitaphs,
p. 34.

PRIVATE ACT,

PASSED 1694-5.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON
ON THE SIXTEENTH DAY OF OCTOBER, A. D. 1694.

[No. 2.]

AN ACT TO ENABLE M^{rs} SARAH PRICE OF SALEM IN THE COUNTY OF ESSEX WIDOW ADMINISTRATRIX OF THE PECULIAR & PROPER ESTATE OF CAP^t JOHN PRICE LATE OF SALEM AFORESAID DECEASED, SURVIVING EXECUTOR OF THE LAST WILL AND TESTAMENT OF CAP^t WALTER PRICE LATE OF SALEM AFORES^d DÉCÉ^d TO REVIEW AN ACTION OF THE CASE TRYED AT SALEM FOR THE S^d COUNTY OF ESSEX ON THE LAST TUESDAY OF JUNE IN THE YEAR OF OUR LORD ONE THOUSAND SIX HUNDRED NINETY & ONE BETWEEN JOHN CROAD OF SALEM AFORES^d MERCHANT EXECUTOR OF THE LAST WILL AND TESTAMENT OF M^{rs} ELIZABETH PRICE LATE OF SALEM AFORES^d DÉCÉ^d PLAINTIFF AND THE S^d JOHN PRICE DEFENDANT—

WHEREAS the s^d Sarah Price by her humble Petition exhibited to this Court, amongst other things sets forth That at the County Court held at Salem as afores^d, Judgement in the Case aboves^d was given for the s^d John Croad against the s^d John Price, from which Judgment the s^d John Price appealed to the then next Court of Assistants to be held at Boston for the Colony of the Massachusetts Bay, but died before the sitting of the s^d Court of Assistants, & the s^d Appeal not prosecuted which s^d Judgement is erroneous and contrary to Law as it is said and greatly to the damage and injury of the Petitioner.

Be it therefore Enacted and Ordained by the Governour, Council and Representatives convened in General Assembly And by the authority of the same,

That it shall and may be in the liberty of the s^d Sarah Price within the space of twelve months next after the date of this present Act, and not afterwards, To bring her Action of Review of the afores^d Action of the Case (tryed at Salem the last Tuesday of June in the s^d year of our Lord one Thousand six hundred Ninety and one, between the s^d John Croad as Executor of all and singular the Estate, Goods, Chattels, Rights and Credits of M^{rs} Elizabeth Price late of Salem décé^d Plaintiff, and the s^d John Price as surviving Executor of the last Will and Testament of Captain Walter Price of Salem afores^d décé^d) to the Inferiour Court of Common Pleas to be held for the s^d County of Essex. And after Judgement or Sentence given upon such Tryal or Review, the party agrieved may appeal therefrom as the Law provides.

Provided always,

And it is hereby Enacted & Declared by the authority afores^d

That the s^d Sarah Price her Executors or Administrators shall be liable to be sued, and respond so far as her late husband Captain John

From the engrossment.
Copy of bill in Essex County Court Records.
Province Laws, 1, 203, note.
Mass. Archives, xvi., 500, 506; xl., 235. Suffolk Probate Files, 1665. Suffolk Court Files, 2925.
Court of Pleas and Sessions, Suffolk, July term, 1686, p. 295. Records of the Court of Assistants in the office of the clerk of S. J. C., Suffolk. Essex County Court Files, 47. Essex County Court Records, vol. 50, p. 126. Essex Inf. Court of Common Pleas: Files. Essex Registry of Deeds, book 1, leaf 79; book 11, leaf 80; book 46, leaf 128; book 155, leaf 55. Records of the Superior Court of Judicature, 1692-95, p. 116.

Stat. 8 Hen.
vi., chap. 9;
29 Charles II.,
chap. 3, § 5.
Colonial Laws
of Massachu-
setts (Whit-
more's ed.),
revision of 1672,
p. 38. Province
Laws, I., 1692-3,
chap. 23; 1693,
chap. 8; 1693-4,

Price in his life time was liable to have accompted for and responded, relating to the Estate of his ffather Captain Walter Price, or of his mother Elizabeth Price dece^d as he was Executor or Trustee of his s^d ffathers Will, such suit to be brought at any time within three yeares next comeing and not afterwards, Regard being had in the Tryal of s^d Review or any other suit relating to the s^d Estate, as to the merit of the Case, unto the Laws of the late Colony of the Massachusetts —
[Passed October 23.]

chap. 11; 1694-5, chap. 18. Essex Institute Hist. Coll., vi., 100. Godolphin's The Orphan's Legacy, etc. (ed. of 1701), p. 86. Swinburne's Treatise of Testaments and Last Wills. Sheppard's Grand Abridgment.

PRIVATE ACTS,

PASSED 1695-6.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF MAY, A.D. 1695.

[No. 3.]

AN ACT TO ENABLE ABIGAIL HANNIFORD OF BOSTON WIDOW TO MAKE
SALE OF AN HOUSE & LAND IN BOSTON

WHEREAS one George Dell heretofore of Boston afores^d long since dece^d first Husband of the s^d Abigail, dyed Intestate, At a County Court held at Boston 26th Aprill 1664 Administration of the s^d George Dell's Estate was granted to the s^d Abigail, and the s^d Court did further order That the remainder of the s^d Estate after the Debts of the Intestate were paid (being by Estimation Eight hundred pounds) should be divided amongst the three Children of the s^d Dell by the s^d Abigail, and that the s^d Abigail should have liberty for her dwelling in the House at the North end of the s^d Town of Boston, whereof the s^d George Dell died seized, paying one halfe of the Rent thereof to the s^d Children, and in case they should require their portions rather than continue their Interests in the s^d House, the s^d Abigail making payment to the value before mentioned, the remainder of the said Estate should be the s^d Abigails.

From the engrossment.
Bill in Mass. Archives, xvi, 511.
Province Laws, i., 231, note.
Mass. Archives, xvi., 502, 504, 512, 513. Suffolk Registry of Deeds, lib. 28, fol. 183-186.

And whereas the s^d Abigail some time after the death of the said George Dell, did intermarry with one John Hanniford who made his last Will and Testament in writing, and thereof constituted the s^d Abigail sole Executrix, and soon after died. And the s^d Abigail at a General Court held at Boston the second day of October 1678 for weighty and necessitous Considerations her thereunto moving did humbly request of the s^d Court to enable the s^d Abigail to sell the s^d John Hannifords real Estate, who did thereupon refer the same to the County Court of Suffolke, to permit and impower the s^d Abigail to sell and dispose of the s^d Hannifords Estate, and the County Court held at Boston by adjournm^t the sixth day of february 1678. did impower the s^d Abigail to make sale thereof, and did further order that the House and Land left by the afores^d George Dell should be secured for the payment of the portions due to the Children of the s^d John Hanniford

And whereas also the s^d Abigail hath justly and honestly paid all the portions and Legacies due to the Children of the s^d John Hanniford, and the s^d Abigail by the providence of God hath continued many yeares a Widow, and hath with great care, diligence and expenses from year to year upheld and repaired the s^d House heretofore belonging to the s^d George Dell, and with great thrift and labour brought up and educated the Children of the s^d Dell and Hanniford, but now being very ancient and for many yeares past not able to labour as heretofore, and by reason of the great Duties and Taxes imposed upon, and

intenantableness of the said House heretofore the s^d George Dells, which is now in very great decay and ready to fall down, and the s^d Abigail has been necessitated to borrow great sums of money and particularly sixty pounds of one person that is still owing with Interest, which the said Abigail is no wayes capacitated to repay, or to repair the said House or sustaine herselfe for the future without the sale of the s^d House and Land.

Wherefore to the end the s^d Debts of the s^d Abigail may be speedily satisfied, and she may be the better provided for and maintained during her natural life, may it be Enacted.

And be it Enacted by the Lieutenant Governour, Council and Representatives convened in General Assembly And by the authority of the same,

That the said House and Land & every part and parcell thereof with their and every of their appurtenances, heretofore the Estate of the said George Dell dece^d scituate lying and being at the Northerly end of the Town of Boston afores^d be and hereby is vested and settled in John Soames of Boston afores^d Cooper and his heires, upon Trust that the said John Soames or his heires shall forthwith sell the said House and Land and every part and parcell thereof with the appurtenances, and out of the proceed of such sale to pay and satisfy all such Debts as the s^d Abigail shall justly owe to any person or persons whatsoever, and out of the residue of the s^d purchase money shall maintain and keep the said Abigail during her natural life, And if any overplus remain at the death & after the Burial of the s^d Abigail, the same shall be paid to the Children of the Daughter of the said John Hanniford (who are only living of the Children of the s^d George Dell & John Hanniford) which sale so to be made by the s^d John Soames or his heires shall be good & effectual in the Law to the purchaser, any Law, usage or Custom to the contrary notwithstanding :

And the s^d John Soames or his heires shall account for the produce of s^d House and Land upon the sale thereof, and for his payments out of the same before the Court of Probate after the death of the said Abigail Hanniford. [*Passed June 13*]

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTIETH DAY OF NOVEMBER, A. D. 1695.

[No. 4.]

AN ACT FOR GRANTING A REVIEW OF A CAUSE TO SAMUEL LEWIS
WM. WEEKES AND THOMAS BOWEMAN.

WHEREAS Samuel Lewis, William Week's and Thomas Boweman of Falmouth in the County of Barnstable, by their Petition have Set forth, that thay are greatly damnified by a Suit comēced and Judgement given against them in the Superiour Court of Iudicature holden at Plymouth within the County of Plymouth upon the 13th day of March, 1693, for one hundred thirty-one pounds, relating to a certain number of Whales or Cowffish stranded and cast on shore on y^e Northwest of y^e s^d Town of Falmouth, and the blubber and oyle of the s^d ffish made and produced; which said oyle and Blubber was taken out of their hands by virtue of a warrant from S^t. William Phips K^t late Govern^r and vice admiral of this his Maj^{ty}'s Province on w^{ch} s^d warrant they depended to justify them against s^d Suite and neglected to bring Evidences more imēdiatly concerning the s^d Fish; and therefore brought a review of the s^d Judgem^t unto the Superiour Court of Judicature holden at Bristol the 2^d day of September, 1694, where their Evidences were rejected, the witnesses not appearing in Court to testify *viva voce*, althō Sworn before one of his Maj^{ty}'s Justices of the Peace, and brought into Court Sealed up; the Law & Practice of the Courts in that respect under the former Govern^t of the late Colony of Plymouth being pleaded and improved ag^t them to bar their Evidences; so that they are now Stop't any further course at cōmon Law for their Releife, and grievously complain they are likely to be utterly ruined & undone; unless Remedy be provided for them by some Act of this Court; which they humbly Pray. To the intent therefore that there be no failure or want of Justice, and that occasion for any Complaint of want of the same may be removed and taken away.

Be it Enacted by the L^t. Gov^r. Council and Representatives in General Court assembled and by the Authority of the same,

That it shall and may be lawful to and for the s^d Samuel Lewis, William Weeks and Thomas Boweman to have a new hearing of the s^d cause at the next Superiour Court of Judicature to be holden at Plymouth aforesaid, by action of review any Law or custom to the contrary notwithstanding; And that Execution upon the former Judgem^t be stay'd, until after the s^d Tryal by review or the End of y^e next Superiour Court of Judicature to be holden at Plymouth. [*Passed December 6.*

No engrossment.
From the bill, in Mass. Archives, xl., 336.
Province Laws, l., 231, note.
Mass. Archives, lxii., 77, 78.
Colonial Laws of Massachusetts (Whitmore's ed.).
Records of the Gov. and Company of Mass. Bay, II., 143; III., 55.
Laws of the Colony of New Plymouth (Brigham's ed.), pp. 96, 97, 132, 133, 282.
Executive Records of the Council, II., 403.
Suffolk Court Files, 2989.
Province Laws, l., 1692-3, chap. 1, 43; 1695-6, chap. 15.

[No. 5.]

AN ACT TO ENABLE JOHN CAREY LATE OF LONDON NOW OF BRISTOL IN THE COUNTY OF BRISTOL MERCHANT TO REVIEW A CAUSE TRYED AT THE LAST SUPERIOUR COURT OF JUDICATURE HOLDEN AT BOSTON WITHIN THE COUNTY OF SUFFOLKE, *INTER* RICHARD CHAUNCEY OF LONDON MERCHANT AND THE SAID JOHN CAREY.—.

No engrossment.
From the bill, in Mass. Archives, xl., 337.
Province Laws, l., 231, note.
Mass. Archives, xl., 331, 332.
Suffolk Court Files, 3444. Records of the Superior Court of Judicature, 1686–1700, pp. 61, 106. Province Laws, l., 1694–5, chap. 18; 1695–6, chap. 3; 1701–2, chap. 6 and note.

WHEREAS the s^d John Carey by his Pet^{con} has set forth, That he is greatly wronged and damnified by a Verdict and Judgem^t given against him in the last Superiour Court of Judicature holden at Boston afores^d for the Sum of £225. 4. 4^l. Sterl. m^o of Engl^d and costs of Court, at the Suit of Richard Chauncey of London Merchant, For that, to wit, He the s^d Carey had before satisfied the debt then Sued for, as appears by an Authentick Copy of a Petition preferred by his (the Pet^{con}) Creditors under their hands (of which the said Chauncey was one) unto the R^t Hon^{ble} S^r John Somers Lord Keeper, attested under the hand and Seal of office of a Sworn Notary wherein it is so declared; As also in a *SuperSedeas* under the great Seal of England (grounded upon the s^d Pet^{con}) unto a Comission of Bankrupt before granted against him the said Carey; both in Court then produced; by virtue whereof Judgem^t had been rendred for the s^d Carey on tryal of the same Cause at two seual Courts before; and were then judged sufficient in Law to Evidence Satisfaction given for the said debt, most of the Justices at the last Tryal being of the same Opinion; And the said cause haveing now past thrō. the course of the comon Law, And there being no Court of Chauncery here open, he is left without releife; unless Remedy be provided for him by some Special act of this high and Hono^{ble} Court; which he humbly Prays for. To the Intent therefore that there be no failure or want of Justice, or ground for Complaint in that respect

Be it Enacted by the L^t Govern^r Council & Representatives in General Court assembled and by the Authority of the same

That it shall and may be lawful to and for the s^d John Carey to have a new hearing of the s^d cause by action of Review before the next Superiour Court of Judicature to be holden at Boston within the s^d County of Suffolke any Law or custom to the contrary notwithstanding.

And that Jn^s Maxwell & Rob^t Maxwell attourney^s to the s^d Richard Chauncey and who prosecuted the Suit in his behalfe, be liable to be Served with Process to answer the s^d action of Review, as by act of this Court is provided in case of the Principals absence upon Strang^r Comenceing Suit ag^t Freeholders or Setled Inhabitants; * and such process duely Served shall be held effectual in Law to bring on the s^d Tryal the s^d Attornys also to respond & Satisfy such Sum & Sums of money as shall be recovered upon the s^d Review with the costs arising thereon, and Execution to be accordingly granted [*Passed December 12.*]

* Province Laws, vol. I., 1695–6, chapter 12, § 3.

PRIVATE ACT,

PASSED 1696.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE EIGHTEENTH DAY OF NOVEMBER, A. D. 1696.

[No. 6.]

AN ACT TO ENABLE LYDIA MOORE RELICT AND SOLE ADMINISTRATRIX OF THE ESTATE OF JOHN MOORE LATE OF BOSTON TAILOR DECED INTESTATE, TO SELL THE RIGHT AND PRIVILEGE OF THE SAID JOHN MOORE IN A PASSAGE WAY LYING AT THE NORTH END OF THE SAID TOWN OF BOSTON.

WHEREAS upon the enlargement and addition made unto the North Meeting House in Boston, the s^d Edifice was erected upon a passage way of about twelve foot wide, formerly laid out betwixt the s^d Meetinghouse as it stood before the said Addition and enlargement, and the pasture ground of Major Thomas Clarke In which s^d way the said John Moore had a right and privilege as an accomodacon unto his Dwelling house adjoining.

And whereas for the avoiding of trouble and contest about the same, the Trustees for the said Building have treated about purchasing of the right and privilege of the said John Moore and his heirs of, in and to the said passage way. And the said Lydia Moore Relict Widow & sole Administratrix of the Estate of the s^d John Moore having made application to be impowred to agree for and make sale of the right and privilege of her said late Husband and his heirs in the s^d passage way, May it be Enacted

And be it Enacted by the Lieutenant Governour Council and Representatives in General Court assembled. And by the authority of the same

That the right, interest, use and privilege of the said John Moore and of his heirs of, in and unto the beforesaid passage way be and hereby is fully vested & settled in the said Lydia Moore and her heirs, upon Trust that the said Lydia Moore or her heirs shall forthwith sell the same to the most profit, benefit & advantage that she can, the neat proceed whereof, (Charges being subducted) shall be carried to the Credit of the Estate of the s^d John Moore, and be accounted for by the said Administratrix in the Accompt of her Administration. Which Sale so to be made by the s^d Lydia Moore or her heirs and the Deed or Deeds to be executed for the same shall be good and effectual in Law to the purchaser. Any Law, usage or Custom to the contrary notwithstanding. [Passed December 10.]

From the engrossment. Bill in Mass. Archives, cxxi., 80. Province Laws, i., 262, note. Mass. Archives, xvi., 621. "New England, Board of Trade," vol. 31, pp. 124, 165, in Public Record Office, London. "Trade papers (Journals)," vol. 12, p. 362, in Public Record Office, London. Suffolk Registry of Deeds, lib. 16, fol. 410, 411.

PRIVATE ACT,

PASSED 1697.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTEENTH DAY OF OCTOBER, A.D. 1697.

[No. 7.]

AN ACT TO ENABLE BENJAMIN ALLIN OF REHOBOTH AND HOPESTIL HIS WIFE TO HAVE A REHEARING AT THE NEXT COURT OF ASSIZE AND GENERAL GOALE DELIVERY TO BE HELD AT BRISTOL, OF A JUDGEMENT OR SENTENCE GIVEN AGAINST THE SAID HOPESTIL BY THE COURT OF QUARTER SESSIONS HELD AT BRISTOL AFORESAID THE 13TH DAY OF APRIL 1697.

WHEREAS Benjamin Allin of Rehoboth in the County of Bristol within this Province Husbandman and Hopestil his Wife by their petition and Complaint preferred unto this Court have set forth that they are agrieved and as they apprehend greatly wronged and injured by a Judgement or Sentence of the Court of Quarter Sessions of the peace holden at Bristol for the s^d County the thirteenth day of April last past, where the s^d Hopestil by the name of Hopestil Leonard *alias* Allin was by the s^d Court declared to be legally convicted of fornication, and ordered to pay a fine of fifty shillings unto his Ma^{ty}, or be publicly whipt with ten stripes, pay the charge of prosecution, and stand committed till s^d Sentence be performed, of which Offence the s^d Complainants say the s^d Hopestil was not presented nor is she guilty, But by the s^d Sentence her money is taken unduely from her, and her name and posterity stained, praying to be relieved by some Act of this Court.

Upon due Consideration whereof, and to the intent that all his Ma^{ty} Subjects may have Justice equally and impartially administred unto them and grievances be redressed.

Be it Enacted by the Lieutenant Governour Council and Representatives in General Court assembled, And by the authority of the same

That the s^d Benjamin Allin and Hopestil his Wife shall and hereby have liberty granted them to have a rehearing of the s^d Case at the next Court of Assize and General Goale delivery to be holden at Bristol afores^d for the Countys of Bristol Plimouth Barnstable and Dukes County in manner as if the same had come before the s^d Court by way of Appeal the s^d Complainants to assigne the Errors in the proceedings and sentence of the s^d Court of Quarter Sessions, in writing under their hands, and to file the same with the Clerk of the peace within the s^d County of Bristol fourteen days before the sitting of the Court of Assize and General Goale delivery within the same. And the s^d Court of Assize and General Goale Delivery are hereby ordered and fully impowred to receive and hear the s^d Cause, and upon due and full hearing to proceed to give Judgement therein according to Law, doing therein that which to Justice appertaineth — any Law, Usage or Custome to the contrary notwithstanding. [*Passed October 30.*]

From the engrossment.
Bill in Mass. Archives, xl., 478.
Province Laws, i., 307, note.
Mass. Archives, xl., 476, 477, 482, 483.
Suffolk Court Files, 3728, 3830.
Records of the Superior Court of Judicature, 1686-1700, p. 198.
"New England, Board of Trade," vol. 31, p. 165, in Public Record Office, London.
"Trade papers (Journals)," vol. 12, p. 362, in Public Record Office, London.

PRIVATE ACTS,

PASSED 1698.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIFTH DAY OF MAY, A. D. 1698.

[No. 8.]

AN ACT TO ENABLE WILLIAM PEABODY JUN^r OF LITTLE COMPTON
IN THE COUNTY OF BRISTOL TO HAVE A NEW TRYAL OF A CAUSE
BETWEEN HIM AND MAJOR BENJAMIN CHURCH OF BRISTOL IN THE
S^d COUNTY OF BRISTOL, AT HIS MAJ^{ties} SUPERIOUR COURT OF JUDI-
CATURE TO BE HOLDEN AT BRISTOL ON THE SECOND TUESDAY OF
SEPTEMBER 1698.

WHEREAS the s^d William Peabody Jun^r by his Petition hath prayed
That he may be enabled by an Act of this Court to have a new hearing
and Tryal of a Case tryed at the Inferiour Court of Common Pleas
holden at Bristol aforesaid on the second Tuesday of April 1696.
between the abovenamed Benjamin Church plaintiff, on Review, and
the s^d William Peabody Defendant, where Judgement was given for
the said Benjamin Church to recover of the petitioner possession of a
certain Lott of eleven acres of Land called the Twenty seventh Lott,
lying situate in Little Compton aforesaid, from which Judgement of
the s^d Inferiour Court the s^d William Peabody (by his ffather William
Peabody who was admitted his Attourney in s^d Court) appealed unto
the Superiour Court of Judicature, which appeal was allowed by that
Inferiour Court, and the petitioners s^d ffathers Bond accepted in his
belaffe, as the principal, together with two Sureties for the prosecution
of s^d Appeal which he rested upon as sufficient. But the Superiour
Court would not allow the Case to be heard, granting a Nonsuit for
that the Petitioner did not appear by himselfe or his Attourney law-
fully authorized by writing under his hand. Upon which the s^d Ben-
jamin Church took out a Writt of *Facias haberi possessionem*, and has
thereby ousted the Petitioner of the said Land whereto he saith he
hath a just and honest right and title but is now debarred from any
further proceedings in the Law for the recovery thereof — Wherefore
that there be no failure of Justice.

*Be it Declared and Enacted by the Lieutenant Governour, Council
and Representatives in General Court assembled. And by the authority
of the same.*

That the s^d William Peabody Jun^r be and hereby is admitted to
have a new hearing of the afores^d Cause at the Superiour Court of
Judicature to be holden at Bristol afores^d on the second Tuesday of
September next ensuing. *Provided* he cause Summons to be served
on the before named Benjamin Church at least fourteen days before
the sitting of s^d Court, to appear at the same to defend the said Suit
Which Summons the Clerk of the said Superiour Court is hereby
impowred and directed to grant and issue forth,

From the en-
grossment.
Bill in Mass.
Archives, xl.,
523.
Copy in Suffolk
Court Files,
3727, 9th paper.
Province Laws,
1., 362, note.
Mass. Archives,
xiv., 245. Suf-
folk Court
Files, 3727. Rec-
ords of the Su-
perior Court of
Judicature,
1686-1700, pp.
91, 92. "New
England, Board
of Trade," vol.
31, p. 165, in
Public Record
Office, London.
"Trade papers
(Journals),"
vol. 12, p. 362, in
Public Record
Office, London.
Province Laws,
1., 1692-3, chap.
33, § 13; 1697,
chap. 9, §§ 11,
12; 1699-1700,
chap. 4, § 6;
1701-2, chap. 7,
§ 1. Public
Statutes, chap.
159, § 40.

Provided also That the s^d William Peabody Jun^r do lay before the s^d Superiour Court the Record and process of the whole Case as it lay before s^d Inferiour Court of Pleas held on the second Tuesday of April 1696, together with the Reasons exhibited for the aforementioned Appeal.

And the s^d Superiour Court of Judicature upon due Consideration and Tryal of the s^d Case, and of any further Evidence produced by either party relating unto the same are hereby directed and required to do that which to Justice appertaineth according to Law. And to give Judgement and award Execution therein. Any Law, Usage or Custom to the contrary notwithstanding. [*Passed June 13.*]

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTEENTH DAY OF NOVEMBER, A.D. 1698.

[No. 9.]

AN ACT TO ENABLE ANN JONES WIDOW, RELICT AND ADMINISTRATRIX OF THE ESTATE OF DAVID JONES LATE OF DORCHESTER WITHIN THE COUNTY OF SUFFOLKE CORDWAINER DECEASED, TO MAKE SALE OF A HOUSE AND LAND BELONGING TO THE SAID ESTATE, FOR THE BENEFIT OF HERSELFE AND SON.

WHEREAS Ann Jones Relict Widow and Administratrix of the Estate of David Jones late of Dorchester within the County of Suffolke Cordwainer deceased by her petition to this Court hath set forth That her said late husband David Jones dyed seized of a House with a parcel of Land thereto belonging, containing about an acre and halfe, scituate in Dorchester aforesaid, as also left one son now about nine years of age, and that since y^e decease of her s^d husband the s^d House is fal'n much into decay. so that no person will hire the same and she not having wherewith to repair s^d House, to make it tenantable, hath prayed to be impowred to make sale thereof for the benefit of herselfe and son. and the Court having been certified of the truth of the matter set forth in the said petition are pleased that it be Enacted

And be it Enacted by the Lieutenant Governour, Council and Representatives in General Court assembled And by the authority of the same

That the beforenamed Ann Jones be, and she is hereby fully authorized and impowred to bargain for, dispose and make sale of the afores^d House and Land, with the assistance of Samuel Topliffe of Dorchester aforesaid yeoman for treating and agreeing about the price, and to ratify & confirme such bargain and sale so to be made by sealing, executing and acknowledging a good and sufficient Deed, Conveyance and assurance in the Law for the same unto the Vendee his heirs and assigns for ever in ffee. The purchase Consideration to be paid for the same to be divided betwixt the s^d Widow and Child in equal halves, and the s^d Ann to give good security unto the Judge of Probate within the s^d County of Suffolke for paying of the moiety or halfe part thereof accruing to y^e Minor, unto him, when he shall attain the age of Twenty one years and she to have and receive the profits and improvements that shall be made of the same for the education of the s^d Minor, until he be of sufficient age to be put forth an apprentice, and freed of charge to his Mother. [*Passed December 2.*]

From the engrossment.
Bill in Mass.
Archives, xvii., 33.
Province Laws, i., 362, note.
Suffolk Probate Files, 1876, Suffolk Registry of Deeds, lib. 5, fol. 492, 493; lib. 34, fol. 8, 9.
"New England, Board of Trade," vol. 31, p. 165, in Public Record Office, London.
"Trade papers (Journals)," vol. 12, p. 362, in Public Record Office, London.

PRIVATE ACTS,

PASSED 1699-1700.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTY-FIRST DAY OF MAY, A.D. 1699.

[No. 10.]

AN ACT TO ENABLE SAMUEL SEARLE SON OF DANIEL SEARLE FORMERLY OF THE ISLAND OF BARBADOS ESQ^r DECED AND JONATHAN TYNG ESQ^r SON AND HEIR OF EDWARD TYNG ESQ^r DECED TO SELL A HOUSE AND LAND IN BOSTON.

WHEREAS the said Daniel Searle not only for and in Consideration of the great love and affection that he bore to Deliverance his lawful wedded wife, Daughter of the s^d Edward Tyng, and to the s^d Samuel Searle his son, begotten of the body of the said Deliverance, but also in consideration of a considerable portion of money received in marriage with the s^d Deliverance, Did in and by a certain Deed or Instrument by him duely executed bearing date the Twenty sixth day of August, which was in the year of our Lord one thousand six hundred sixty nine, give, grant, bargain, sell, enfeoff and confirme unto the s^d Edward Tyng his heirs and assigns all that piece or parcel of ground with a large wharfe, together with all Houses, edifices, structures and buildings in and about or upon the same built or to be built by the s^d Daniel, or in any wise thereto belonging, situate lying and being in the Town of Boston afores^d near ffort hill purchased by the said Daniel of one Gridley, and all other the Houses and Lands of the said Daniel Searle in New England. To have and to Hold the said piece or parcel of Land and all and singular the premisses with the rents, issues and profits thereof to the s^d Edward Tyng his heirs and assigns for ever. But to and for the sole and proper use benefit and behoofe of the said Deliverance for and during her natural life, and after her decease to the s^d Samuel and the right heirs of his body begotten for ever, and in default of such Issue to the right heirs of the body of the said Daniel begotten for ever.

And whereas the edifices buildings and structures upon the said piece of Land granted unto the s^d Edward Tyng in Trust as afores^d as also the wharfe thereunto belonging are greatly fallen to decay and part thereof already tumbled down, and likely to be utterly ruined and spoyled, and the s^d Samuel hath not wherewith to repair the same, So that the said Land, wharfe and premisses have not been nor are they of any benefit or advantage to the s^d Samuel, whereby the end, design & intentions of the s^d Daniel Searle in granting the same as aforesaid are wholly frustrated and defeated and the said Samuel Searle instead of receiving profits out of the s^d Estate for his education and comfortable subsistance is for want thereof become indebted upwards of one hundred pounds for his education and is unable to pay the same

From the engrossment.
Bill in Mass. Archives, xvii., 55.
Province Laws, i., 417, note.
Mass. Archives, xvii., 41, 57.
Suffolk Registry of Deeds, lib. 5, fol. 102, 103; lib. 6, fol. 332, 333; lib. 20, fol. 591-594.
"New England, Board of Trade," vol. 32, p. 281, in Public Record Office, London. Savage's Genealogical Dictionary, under Tyng.
New Eng. Hist. and Gen. Reg., viii., 19.

without the sale of the said Land and premisses, which he cannot do without the especial act of this Court, by reason of the Entail and Limitation in the said Deed.

And forasmuch as the sale of the said Land and premisses is absolutely necessary both for the preservation of the wharfe, edifices and structures thereunto belonging and appertaining, as for the better and more comfortable subsistence of the said Samuel Searle

Be it therefore Enacted by the Governour, Council and Representatives, convened in General Assembly, And it is hereby Enacted by the authority of the same —

That the s^d Jonathan Tyng and Samuel Searle be and are hereby fully authorized, impowred and enabled to make sale of the said Wharfe, Lands, Houses and premisses for valueable Consideration to any person or persons whatsoever, and to their heirs and assigns for ever in fee simple or fee taylor, and to signe, seale and execute such Conveyance and Conveyances assurance and assurances in the Law as such person or persons shall be advised to by their Council knowing in the Laws. And that such Conveyance and Conveyances assurance and assurances shall be good, sufficient and available in the Law against the heirs in taylor of the said Samuel Searle to all intents and purposes according to the true intent and meaning of the same Conveyances and assurances, And as well the heirs of the said Samuel Searle as the heirs of the aforementioned Daniel Searle Esq^r are hereby debarred & excluded from all right, title and interest in and to the said Wharfe, houses Lands and premisses and every part thereof as if the said Deed of Entail to the s^d Edward Tyng in Trust had never been made, and from all right, title and interest in and to the s^d premisses or any part thereof, which by any other ways or means whatsoever to them or either of them might in any wise have accrued

Provided nevertheless,

And be it further Enacted by the authority aforesaid

That all the remainder and residue of the moneys produced and obtained by sale of the said Wharfe, Houses, Lands and premisses and every part thereof over and above the sum of one hundred and fifty pounds (which sum of one hundred and fifty pounds is hereby granted unto the said Samuel Searle to enable him to defray the charge of his Education) shall be vested and laid out by the s^d Samuel Searle and Jonathan Tyng for the purchase of some other Lands or Tenements within this Province, to be granted and settled to the same use and uses, and under the same limitations as the said Wharfe, Houses Lands and premisses afores^d are settled and limited in and by the aforerecited Deed of Trust made unto the s^d Edward Tyng. [*Passed July 14.*]

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTEENTH DAY OF MARCH, A. D. 1699-1700.

[No. 11.]

AN ACT TO IMPOWER JOAN PAPILLIO TO SELL TWO TEN ACRE LOTTS
BELONGING TO THE ESTATE OF PETER PAPILLIO LATE OF BRISTOL
DECED.

WHEREAS It hath been represented to this Court by the Petition of Joan Papillio Widow, Relict of Peter Papillio late of Bristol within this Province deceased Intestate, That she the s^d Joan is reduced to great streights and difficulties to procure necessary subsistence for herselfe and several small children, by reason that the greatest part of the Estate left by her late husband consists of Houses and Lands which cannot be improved by being let out, nor can the s^d Joan with her Children subsist, unless part of the Lands afores^d may be sold.

Be it therefore Enacted and Ordained by his Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same It is Enacted

That the s^d Joan Papillio shall and may, with the advice and consent of M^r Ebenezer Brenton and Deacon John Carey of Bristol, make sale of two ten acre Lots belonging to the Estate of Peter Papillio afores^d deceased, lying in Bristol afores^d And the s^d Joan with the advice and consent of the s^d M^r Ebenezer Brenton and Deacon John Carey is hereby authorized and impowred to make, seale and execute in due forme of Law Deeds and Conveyances of two ten acre Lots which she shall sell with the advice and consent of the before named persons, which Instruments shall make a good Title to the purchaser, his heirs & assigns for ever, any Law, usage or Custom to the contrary notwithstanding.

And it is further Enacted

That the abovenamed M^r Ebenezer Brenton and Deacon John Carey shall be and are hereby appointed as Overseers to see that the money for which the two ten acre Lots afores^d shall be sold, shall be improved for the maintainance of the said Joan and the Children of the afores^d Peter Papillio deceased, and not for any other use. [*Passed March 23, 1699-1700.*]

From the engrossment.
Bill in Mass. Archives, xvii., 67.
Province Laws, i., 417, note.
Mass. Archives, iii., 64, 81; xvii., 58-60. Legislative Records of the Council, vii., 62, 64. "New England, Board of Trade," vol. 32, pp. 80, 192, 231, in Public Record Office, London. Bristol Registry of Deeds for Northern District, book 6, pp. 53-55.

PRIVATE ACTS,

PASSED 1700-1.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON
ON THE TWELFTH DAY OF FEBRUARY, A.D. 1700-1.

[No. 12.]

AN ACT TO ENABLE THOMAS CORAM OF BOSTON SHIPWRIGHT TO PROSECUTE THE APPEALS BY HIM MADE FROM SEVERAL JUDGEMENTS GIVEN AGAINST HIM IN THE INFERIOUR COURT OF COMMON PLEAS HOLDEN AT BRISTOL ON THE SECOND TUESDAY OF JANUARY 1700, AT THE NEXT SUPERIOUR COURT TO BE HELD FOR THE COUNTY OF BRISTOL,~.

WHEREAS Thomas Coram of Boston, sometimes residing at Taunton within this Province Shipwright, by his humble petition hath set forth, That at an Inferiour Court of Common pleas held at Bristol on the second Tuesday of January last past, he commenced an Action of Covenant against Peter Walker of Taunton afores^d Husbandman, for not timely drawing all the Timber and wooden materials to be used about a certain Ship building in his s^d Corams yard at s^d Taunton, for the compleat building, launching and finishing thereof according to Articles under the s^d Walkers hand and seal; In which Action the s^d Defendant obtained a Verdict and Judgement to recover Costs: And That at the s^d Inferiour Court he the s^d Coram brought also an Action of the Case against Eleazer Walker of Taunton afores^d Yeoman, for that the s^d Walker had molested him s^d Coram from cutting and carrying away into his yard, Timber for the building of a certain Ship then upon the stocks, for which Timber he had agreed with s^d Walker; In which Action the said Defendant likewise obtained a Verdict and Judgement to recover Costs: And That at the same Court, the above-named Peter Walker brought an Action of Debt against him the s^d Thomas Coram to recover five hundred pounds upon an Arbitration Bond for not performing the award of Eliakim Hutchinson and Nathaniel Byfield Esq^r & Cap^t Andrew Belcher; In which Action the s^d Peter Walker obtained a Verdict for five hundred pounds, the forfeiture of the s^d Bond, and had Judgement entred up for him accordingly:

And also, That at the same Court, the s^d Eleazer Walker brought a like Action of Debt against him the s^d Coram upon another Bond, and therein obtained a like Verdict and Judgement. And in the s^d petition hath further set forth That in all the s^d Actions he the s^d Coram appealed to the next Superiour Court to be held for that County, and paid the Clerk for entring of the same, and also brought some persons to be his Sureties for the prosecution of his Appeals, But the Court refusing to accept of them he went immediately to find others, and brought them, but the Court was then adjourned without day, for which reason the Judges refused to take Bond for his prosecuting his s^d

From the engrossment.
Bill in Mass. Archives, xl., 653.
Province Laws, l., 454, note.
Ibid., Resolves, 1700-1, chap. 72.
Mass. Archives, xl., 645-652.
Legislative Records of the Council, vii., 153, 163. Suffolk Court Files, 5095, 5471, 6183, 24739. Lettingwell collection of MSS., sale-catalogue, Nos. 3133, 5225.
Winslow-Lewis collection of MSS. in cabinet of the New Eng. Hist.-Gen. Soc.
Records of the Superior Court of Judicature, 1686-1700, pp. 79, 106; 1700-1714, pp. 52-54, 78, 106. "New England, Board of Trade" vol. 32, p. 433, in Public Record Office, London.
Bristol Court of Common Pleas: Records. Old Colony Hist. Soc. Coll., No. 2, p. 5, *et seq.*
Carlyle's Frederick the Great, book xvi., chap. 14.

Appeals, so that on the very next day after the Jury gave in their Verdicts in the several Causes afores^d, Executions issued against him the s^d Coram for the s^d two sums of five hundred pounds, which Executions are levied on two new Ships in his the s^d Corams yard at Taunton, and other Estate of his, worth together above Twenty one hundred pounds; although the sums awarded by the aforementioned Arbitrators to be paid by him s^d Coram, were but Thirty three pounds, eight shillings to the s^d Peter Walker, and eight pounds, twelve shillings, and two yards and three quarters of Cloth to the s^d Eleazer Walker.

And whereas the s^d Thomas Coram complains That by reason of the proceedings of the Justices of the afores^d Inferiour Court of Common pleas in not chancering his afores^d Bonds in the entring up Judgement thereupon, to the just debt and damages, and in not takeing his Bonds for prosecuting his s^d Appeals, which upon his claim thereof, were allowed to him whilst the s^d Court was sitting, before the adjournment thereof without day as afores^d and also by reason of the Executions issued upon the s^d Judgements and levied as afores^d he is greatly injured and oppressed, and an extream & intolerable damage is occasioned unto him in his being hindred from proceeding to finish the s^d Ships: And hath therefore prayed that by some special Act of this Court such provision may be made as may be for the relief of him the s^d Coram against the intolerable injury and oppression which he saith he lyeth under by reason of the Judgements and Executions aforesaid.

Be it therefore Enacted by the Lieutenant Governour, Council & Representatives in General Court assembled, and it is hereby Enacted by the authority of the same

That the s^d Thomas Coram shall be and is hereby enabled to have a new Hearing and Tryal of the several Causes before mentioned at the next Superiour Court of Judicature, Court of Assize & General Goal Delivery to be holden at Bristol afores^d for the County of Bristol, in the manner of an Appeal. So as he give sufficient Security before one or more of the Justices of the s^d Superiour Court, attended with the Clerk thereof, to prosecute his appeal in the s^d several Causes at the afores^d Superiour Court of Judicature, Court of assize and General Goale Delivery, with effect, as the Law directs, and to satisfy all such costs and damages as upon the Tryal of the s^d respective appeals shall be awarded against him.

And the s^d Superiour Court is hereby impowred and required to admit of the s^d Appeals accordingly and upon hearing and Tryal of them to give Judgement therein, and to do that which to Justice doth appertain. Any Law, usage or Custom to the contrary notwithstanding.

And it is further Enacted by the authority afores^d

That the several Executions granted and issued on the several Judgements afores^d and every of them, and the levying and service of the same, and all the proceedings had thereon or by virtue thereof, be, and are hereby vacated, and declared to be null, void and of none effect. And that the Ships and all other Goods and Estate whatsoever levied and taken by the s^d Executions or any of them be returned and restored to the said Thomas Coram in the same place, order and good condition, in which they were levied and taken. And the Sheriffe or his Deputy that levied the same and all others whom it doth or may concern are hereby commanded and required, upon sight of a Certificate from the Clerk of the s^d Superiour Court of Judicature that the s^d Thomas Coram hath given security for prosecuting his said appeals in manner as aforesaid, to restore and deliver unto the s^d Thomas Coram, the s^d Ships & all other Goods & Estate levied and taken by the s^d Executions or

any of them, according to the true intent & meaning of this Act, in manner & condition as is before expressed, at their peril, and this Act shall be to the s^d Sheriffe or his Deputy, and all others whom it doth or may concerne, a sufficient Warrant for restoring and delivering of the same accordingly.

And in case of refusing to restore & deliver such Ships Goods or Estate as afores^d the s^d Thomas Coram shall be and is enabled by virtue of this Act to bring an action or actions of Trespass against the person or persons so refusing to yield obedience thereto, and to recover all just damages. [*Passed March 12, 1700-1.*]

[No. 13.]

AN ACT ENABLING JOHN BURNABY OF BOSTON MERCHANT TO HAVE A TRYAL OF HIS APPEAL FROM THE JUDGEMENT OF PENN TOWNSEND ESQ^r ONE OF HIS M^{aj}ties JUSTICES OF THE PEACE, AT THE NEXT COURT OF GENERAL SESSIONS OF THE PEACE TO BE HOLDEN AT BOSTON FOR THE COUNTY OF SUFFOLKE.

From the engrossment.
Bill in Mass.
Archives, xl.,
665.
Province Laws,
i., 454, note.
Mass. Archives,
xl., 604. Leg-
islative Records
of the Council,
vii., 164, 168.
"New England,
Board of
Trade," vol. 32,
p. 413, in Public
Record Office,
London.

WHEREAS John Burnaby of Boston in the Province afores^d Merchant, by his humble petition hath set forth, That at the prosecution of Samuel Lillie of s^d Boston Merchant, he was convented on the Twenty eighth day of December last past before Penn Townsend Esq^r one of his Majesties Justices of the peace, for saying unto said Lillie in the s^d Burnabys own Warehouse, That the said Lillie told a notorious Lie, and he would prove it; being exasperated to express himselfe in such words by abusive discourse he then received from the said Lillie: And that the said Justice Townsend, by his Judgement given upon the s^d prosecution, having declared the s^d John Burnaby convicted of makeing or publishing a Lie to the defamation of the s^d Samuel Lillie, and fined the s^d Burnaby for the same, he appealed from the s^d Judgement to the (then) next Court of General Sessions of the peace to be holden at Boston afores^d for the County of Suffolke, but through mistake directed his Reasons of Appeal to the next Inferiour Court of Judicature, by means of which mis-direction the Court rejected his Reasons of Appeal, so that thereby, to his unspeakable grief, he lost the benefit of the Law: And hath therefore prayed That, inasmuch as the cause of his prosecution as afores^d being only frivolous and no ways injurious to the prosecutor, but a great disrepute and scandal to him the s^d petitioner to have the afores^d Record of the s^d Justice Townsend remain against him, he might have remedy by some Act of this Court, enabling him to file new Reasons of Appeal in the premisses, and to have the same heard.

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That the s^d John Burnaby shall be and is hereby enabled and impowred to have a new Tryal of his Case aforesaid, at the Court of General Sessions of the peace to be holden at Boston afores^d for the County of Suffolke afores^d on the first Tuesday in April next, in the manner of an appeal; *provided* he timely file the Reasons of his Appeal according to the directions of the Law in such case.

And the s^d Court of General Sessions of the peace are hereby impowred and required to accept and admit of the s^d John Burnabys appeal accordingly, and upon a full hearing and consideration thereof to give Judgement therein, and to do that which to Justice doth appertain according to Law.

Any Law usage or Custom to the contrary notwithstanding. [*Passed March 12, 1700-1.*]

PRIVATE ACTS,

PASSED 1702.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT CAMBRIDGE, ON THE FIFTEENTH DAY OF OCTOBER, A. D. 1702.

[No. 14.]

AN ACT TO ENABLE SAMUEL SEWALL ESQ^r AND HANNAH HIS WIFE, TO SETTLE CERTAIN LANDS AT MUDDY RIVER IN THE COUNTY OF SUFFOLKE UPON SAMUEL SEWALL THEIR ELDEST SON.

WHEREAS by an Agreement bearing date the twelfth day of March In the year of our Lord God one thousand six hundred eighty three /4 made between Judith Hull Relict Widow of John Hull late of Boston within the County of Suffolke afores^d Esq^r deceased Intestate, and the s^d Samuel Sewall Esq^r and Hannah his s^d Wife, the Daughter and heir of the s^d John Hull, for distribution and settlement of the Estate of the s^d John Hull Esq^r, ratified by the County Court of Suffolke, who were by Law then impowred to divide and settle the Estates of Intestates, Amongst other particulars of Estate therein mentioned, there is assigned and set forth unto the s^d Samuel and Hannah Sewall for term of life, and the longer liver of them, certain parcels of Land lying situate in Muddy river (a Hamlet of the Town of Boston within the County afores^d) commonly cal'd and known by the names of Brooklin, Swamplin & Hogs-coat, containing about three hundred acres in the whole, of value, by estimation about one thousand pounds; and the reversion thereof at and after the decease of the s^d Samuel and Hannah, unto the Children of the s^d Hannah which then were, and which she might further have, equally divisable between them.

And whereas the s^d Lands can make but one handsome Seat or Living with suitable accommodations, the partition or division whereof would prejudice and spoyle the same. And the s^d Samuel and Hannah Sewall being desirous that their eldest son Samuel Sewall may settle thereupon, and have and enjoy the whole of the s^d Lands for his accommodation, pray that it may be Enacted.

And be it accordingly Enacted by his Excellency the Governour, Council and Representatives in General Court assembled and by the authority of the same,

That the s^d Samuel Sewall Esq^r and Hannah his s^d wife, be and hereby are fully impowred to grant, convey confirme and settle to and upon their s^d son Samuel Sewall and Rebecca his wife all the aforementioned Lands called and known by the name and names of Brooklin, Swamplin and Hogs-coat, the aforesaid Agreement of settlement or anything therein contained to the contrary in any wise notwithstanding, and to seale and execute a good and sufficient Deed of Conveyance to them for such Estate therein and under such agreements, Conditions and Limitations as to the s^d Samuel & Hannah Sewall shall be thought

From the engrossment.
Bill in Mass. Archives, xlv., 290.
Province Laws, i., 508, note.
Legislative Records of the Council, vii., 331, 332, 334, 338, 355. Suffolk Registry of Deeds, lib. 13, fol. 92; lib. 26, fol. 183, 184.
"Trade papers (Journals)," vol. 10, p. 79; vol. 19, p. 238. In Public Record Office, London. Sewall's Diary, i., 251; ii., 60, 80. Sewall's Letter-Book, i., 278-281; ii., 312, et seq.

fit accordingly. *Always Provided* That the s^d Samuel Sewall and Hannah his s^d wife in lieu thereof do by good and sufficient Conveyance in the Law assigne and settle other Lands and Estate to and for the use of the present Children of the s^d Hannah and such as she may further have, to the value of one thousand pounds, to the satisfaction of Isaac Addington and John Hathorne Esq^r two of her Ma^{ty} Justices of the Superiour Court of Judicature, to fall in division among the s^d Children according to the aforerecited Act of settlement. which Deed and Deeds so made and executed shall be good and effectual in the Law for passing the Estate therein mentioned accordingly. [*Passed November 21.*]

[No. 15.]

AN ACT IMPOWERING PERSONS TO MAKE SALE OF A MESSUAGE AND LANDS IN CAMBRIDGE BELONGING TO THE HEIRS OF NATHANIEL GOOKIN CLERK DECED BEING MINORS.

WHEREAS Nathaniel Gookin and Hannah Gookin the Children and heires of Nathaniel Gookin late of Cambridge within the County of Middlesex Clerk deceased by their petition to this Court have set forth That their said ffather at his decease left but a smal personal Estate in the hands of his Widow (now also deceased) not more than served to support her and the s^d Orphans during her life, together with the Income of a Messuage situate in Cambridge containing a House and about three acres of Land with Wood Lots and two Cow Commons, which is now the whole of the Estate remaining, and the Buildings thereon consuming the whole of the Rent in repairs, being likely to go wholly to decay, also the Orchard adjoyning, before they shall arrive to lawful age whereby the Estate will become of little or no value: And there being now an opportunity to sell the s^d Messuage to good advantage whereby the said Orphans may have something for their support and education, they have prayed that some meet persons may be impowred by Act of this Court to make sale thereof on their behalfe.

Be it therefore Enacted by his Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same

That Jonathan Tyng Esq^r and M^r Daniel Gookin, two of the petitioners uncles, be and hereby are fully impowred and authorized to make sale of the Messuage and Land abovementioned, with the s^d Woodlots and Cow Comons to the best profit and advantage of the s^d Orphans that they can, and to pass and execute a good and sufficient Deed of Conveyance in the Law for the same. The purchase Consideration therefore to be paid, or moneys produced by the sale thereof to be delivered into the hands of the Guardians of the s^d Minors to be by them chosen or duely appointed, to be improved for their use & advantage. [*Passed November 21.*]

From the engrossment. Bill in Mass. Archives, xvii., 90. Province Laws, i., 508, note. Mass. Archives, xiv., 298. Legislative Records of the Council, vii., 323, 341, 347, 356. Middlesex Registry of Deeds for Southern District, book 13, leaf 534. "Trade papers (Journals)," vol. 10, p. 79, and vol. 19, p. 238, in Public Record Office, London. Province Laws, i., 1692-3, chap. 29; 1696, chap. 10, § 2; ii., 1727, chap. 6. Laws and Resolves of Massachusetts (ed. of 1890), 1784, chap. 32, §§ 2, 6. Public Acts, 1822, chap. 121.

PRIVATE ACT,

PASSED 1703-4.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SIXTH DAY OF MAY, A.D. 1703.*

[No. 16.]

AN ACT FOR REVERSING THE ATTAINDER OF ABIGAIL FAULKNER &
OTHERS.

WHEREAS Abigail Faulkner, wife of Francis Faulkner of Andover in the County of Essex, Sarah Wardel Wife of Samuel Wardel of the same place, Elizabeth Procter Wife of John Procter of Salem Village within the said County. In the Court of Oyer and Terminer and Goal Delivery holden at Salem within the said County of Essex in the year One Thousand Six hundred ninety two were arraigned convicted and attainted of Felony for practising Witchcraft, who have now humbly petitioned this Court, That the said Attainders may be set aside and made void. — Wherefore

be it Declared & Enacted by his Excellency the Governour Council and Representatives in General Court Assembled, and by the authority of the same,

That the said Several convictions, Judgements and Attainders of the said Abigail Faulkner, Sarah Wardel, Elizabeth Procter and every of them be, and are repealed, reversed, made and declared null and void to all intents, constructions and purposes whatsoever; as if no such convictions, Judgements or Attainders had ever been had or given. And that no corruption of blood, pains, penalties or Forfeitures of Goods or Chattels be by the said convictions and Attainders or any of them incurred, But that the said persons and every of them be and hereby are reinstated in their just Credit and reputation —

Any Law, usage or custom to the contrary notwithstanding [Passed July 27.

1 James i., chap. 12; 9 Geo. ii., chap. 5. Colonial Laws of Massachusetts (Whitmore's ed.), revision of 1660, p. 43, art. 47. Province Laws, i., 1692-3, chaps. 1, 11, 19, 33, 40, 42, 45. Leffingwell collection of MSS., sale-catalogue, No. 3782. Mass. Hist. Soc. Coll., v., 61-79; 4th series, viii., 285. Proc. Mass. Hist. Soc., xiii., 110; xx., 144, 145; 2d series, i., 349, *et seq.* New Eng. Hist. and Gen. Reg., xiv., 233. New York Hist. Soc. Coll., 1869, pp. 273-276. Phil. Trans., xxix., 62, *et seq.* Lit. and Hist. Soc. of Quebec, 1831, ii., 313. Sewall's Diary, i., 236, 267, 370. Sewall's Letter-Book, i., 310. Sermons: Rules for the Discovery of the Present Times, etc., by Samuel Willard; The Devils Discovered, by Cotton Mather; MS. sermons in the library of New Eng. Hist.-Gen. Society. Reginald Scot's Discovery of Witchcraft (1584). Lambard's Eirenarcha (1610). Mede's Apostacy of the Latter Times (1642). Wagstaffe's Question of Witchcraft Debated, etc. (1669). Webster's Displaying of Supposed Witchcraft (1677). Glanville's Sadducismus Triumphatus (1681). Dalton's Country Justice. Increase Mather's Illustrious Providences, etc.; Remarkable Providences; Order of the Gospel, etc.; Cases of Conscience concerning Witchcrafts; Further Accounts of the Tryals, etc. Cotton Mather's Memorable Providences relating to Witchcrafts, etc.; Late Memorable Providences, etc.; Enchantments Encountered; Wonders of the Invisible World, etc. Calef's More Wonders of the Invisible World. Rev. Samuel Willard's Some Miscellany Observations on our present Debates respecting Witchcrafts, etc., by P. E. and J. A. Gospel Order Revived, etc. Perkins's Way for the Discovery of Witches. Lawson's Narrative of some remarkable passages relating to the afflicted at Salem Village. Sir Robert Filmer's Advertisement to the Jurymen of England touching Witchcraft.

* Continued, by adjournment, from the eighth to the thirtieth day of June, and then, by subsequent adjournments, to the eighth of July.

Post, No. 26.
From the engrossment.
Province Laws, i., 541, note.
Resolves, 1693-4, chap. 3, note; 1694-5, chap. 59; 1696-7, chap. 54; 1697, chap. 64; 1700-1, chap. 40. Mass. Archives, xi., 69; xl., 264; cxxxv. Legislative Records of the Council, vi., 230. Records of the Superior Court of Judicature, 1696-1700, p. 52. Minutes of the Provincial Council of Pennsylvania, i., 366, 367. "Colonial Entry Book," vol. 62, p. 414, in Public Record Office, London. Stats. 33 Hen. viii., chap. 8; 1 Edward vi., chap. 12; 5 Eliz., chap. 16;

Woodward's Records of Salem Witchcraft, ii., 214. Goodell's Further Notes on the History of Witchcraft in Mass. Moore's Bibliographical Notes on Witchcraft; Final Notes on Witchcraft. Upham's History of Witchcraft, etc., ii., 490. Sprenger's Das Leben und die Lehren des Mohammad. Bacon's Works. Selden's Table-Talk, Works, vi., 2077. Foss's Biographia Juridica. Wood's Institutes. Blackstone's Commentaries. Coke's 3d Inst., chap. 6. Douglass's Summary, i., 450. Barrington's Observations on the Statutes, p. 408. Bremer's Life in Dalecarlia. Bergman's Vårt Land och Folk. Fell's Dæmoniæ (1779). Thomson's History of the Royal Society. Dr. Pond's Mather Family, pp. 134, 135. Mather's Life of Cotton Mather, p. 77. Bond's Genealogies and History of Watertown. Miller's Description, etc., of New York, 1862, p. 9. Memorial History of Boston, ii., 147, *et seq.* Hutchinson's History of Mass., ii., 18, 26. Congregational Quarterly for July, 1869, pp. 400-415. North American Review, vol. 108, p. 392.

PRIVATE ACT,
PASSED 1704-5.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON
ON THE TWENTY-FIFTH DAY OF OCTOBER, A.D. 1704.

[No. 17.]

AN ACT TO ENABLE SUSANNA CODNER (LATE YOUNG) SOLE EXECUTRIX OF THE LAST WILL & TESTAM^t OF WILLIAM PARSONS LATE OF BOSTON SLEY-MAKER DECED, TO SELL THE HOUSE & LAND OF THE S^d WILLIAM PARSONS TO PAY HIS JUST DEBTS.

WHEREAS the above named William Parsons in & by his last Will & Testam^t bearing date the third day of December 1695, Haveing first Willed, That his Funeral charges & all his just Debts be well & truely paid by his Executrix therein named, amongst other things therein contained, & Legacies by him given, Did give and bequeath the full remainder of his real & personal Estate whatsoever it is or wheresoever it may be found, unto Susanna Young (now Codner) and to her Heires of her body lawfully begotten; And if She and her Children (if She shall have any) dye without issue lawfully begotten; then he gives & bequeaths his House & Land in Conduit Street near the Drawbridge in Boston unto Naomy Young, and her Heires of her body lawfully begotten; And Saith, it is his full intent & meaning that this his s^d house & Land shall never be given away nor sold by them, but is thereby Intailed, & as afores^d made over & given unto his near relations & kindred of his own blood forever, And of his s^d Will nominated & appointed the s^d Susanna Young (now Codner) to be the Sole Executrix.

And whereas the s^d Susanna Codner by her petition hath Set forth, That the s^d William Parsons at the time of his Death was considerably indebted to Sundry persons, as by a List thereof presented, Amounts to the Sum of One hundred thirty four pounds, two shillings & Eleven pence, and the Creditors often demand the same, And there being no way to discharge the s^d Debts but by the Sale of the said House and Land, hath prayed that she may be enabled by an Act of this Court so to do, the whole personal Estate of y^e deced being Apprized at the value of Six pounds, & the House & Land Estimated to be worth about Two hundred & fifty pounds% —

Be it therefore Enacted by his Ex.^{ty} the Governour Council & Representatives in General Court Assembled, & by the Authority of the same,

That the s^d Susanna Codner as Exec^{tr} afores^d be & hereby is fully Authorized & impowered to dispose & make Sale of the s^d House & Land, to Enable her by the produce thereof to pay & Satisfy the just Debts of the afores^d Testator & further to performe his Will, And to Execute a Suffieient Deed or Instrum^t in the Law for the passing & conveying of the same to the Purchaser, & his Heires forever as a good Estate of Inheritance in fee, the words of Intaile in the Will notwithstanding% — [*Passed November 17.*]

From the engrossment.
Bill in Mass. Archives, xvii., 218.
Province Laws, i., 561, note.
Mass. Archives, xvii., 121-124.
Legislative Records of the Council, viii., 87, 89, 94; xli., 101.
Suffolk Probate Files, 2765.
Suffolk Registry of Deeds, lib. 22, fol. 73-75.
Province Laws, i., 1692-3, chap. 29; 1696, chap. 10.
Quincy's Reports, p. 69.
Savage's Genealogical Dictionary, under Parsons.

PRIVATE ACT,

PASSED 1705-6.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FOURTH DAY OF OCTOBER, A.D. 1705.

[No. 18.]

AN ACT TO DISSOLVE A JUDGMENT OF THE INFERIOUR COURT OF COMMON PLEAS WITHIN THE COUNTY OF ESSEX. IN THE CASE OF ERASMUS JAMES, V^s ROBERT BARTLET & OTHERS

WHEREAS in the Record & Process, and also in the giving of Judgement and Issueing Execution of a Suit, which was before her Ma^y Justices of the Inferiour Court of Common Pleas for the County of Essex, holden at Newbury, on the last Tuesday of September 1704. commenced by Erasmus James of Marblehead, onely Son and Surviving heir in Law of Erasmus James late of Marblehead within the County of Essex afores^d deced, Plaintiffe against Robert Bartlet of Marblehead afores^d and others, Defendants in a Plea of Trespass and Ejectment, Errour manifestly doth Appear to have Intervened; The said Bartlet & Several others named in the Writt Appearing to Answer were refused to be received as Defendants, and yet the Judgem^t is given by default, And afterwards an Appeal denied them upon their Challenge thereof, and Execution notwithstanding granted and Served, to the grievous Damage of the s^d Rob^t Bartlet as by his Complaint and Petition for redress is Set forth, being without Remedy in the Ordinary process and course of y^e Co^mon Law.

Be it therefore Declared & Enacted by his Ex^{ty} the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,

That the Judgement rendred by the Justices of the s^d Inferiour Court of Common Pleas in the Court holden as afores^d against the s^d Robert Bartlet and others, at the Suit of the s^d Erasmus James in the Plea afores^d And the Execution issued thereupon with the Service thereof and all proceedings had relating thereto be and hereby are Dissolved, vacated & made of none Effect; —

And be it further Enacted by the Authority afores^d

That the s^d Robert Bartlet, be and hereby is restored to his Right & Possession of and in the Land whereof he is Ousted by the said Execution, as at the time of his being put out (and no otherwise) the Levying thereupon, Record of the said Execution, and the Return thereon made notwithstanding; —

And that the said Erasmus James his Right at Law is hereby Saved to proceed against all or any of the persons in his Writt named, on which the afores^d Suit was brought; who is not by this Act precluded to proceed upon the same Original Writt, if he thinke fit; — [*Passed November 16.*]

From the engrossment.
Province Laws, 1., 579, note.
Resolves, 1705-6, chap. 70;
1706-7, chap. 19.
Mass. Archives, xl, 818, 819, 822-836, 920-928;
cxlii., 421. Legislative Records of the Council, viii., 161, 166, 168, 169, 199, 390.
Essex Inf. Court of Common Pleas: Files, Records, Suffolk Court Files, 6617.
Records of the Superior Court of Judicature, 1700-1714, fol. 173. Boston News-Letter, No. 86.

PRIVATE ACTS,

PASSED 1706-7.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF MAY, A.D. 1706.

[No. 19.]

AN ACT FOR IMPRISONING WILLIAM ROUSE, SAMUEL VETCH JOHN
BORLAND, ROGER LAWSON EBENEZAR COFFIN & JOHN PHILLIPS
JUN^r

WHEREAS The Representatives of Her Ma^y' Province of the Massachusetts Bay in New England in this present Session of the General Assembly have Impeached William Rouse Mariner Samuel Vetch Esq^r John Borland & Roger Lawson Merchants, Ebenezar Coffin Mariner and John Phillips jun^r Mariner for Illegal Trading with selling to and Supplying of the french and Indians at Port Royal and other places in the possession of the French Kings Subjects there Inhabiting, the open and Declared Enemy of her Ma^y' Government & Liege People in this Province, declaring the same to be an high misdemeanor and greatly to the hurt and damage of her Ma^y' Government and liege People. —

Now to the End, that their persons may be Secured, so as to Answer and be Lyable to Justice in the Great & General Court or Assembly. / —

Be it Enacted by his Excellency the Govern^r by & with the Advice and Consent of the Council and Representatives in General Court Assembled, and by the Authority of the same, —

That the s^d William Rouse, Samuel Vetch John Borland Roger Lawson, Ebenezar Coffin and John Phillips shall be and are hereby committed to her Ma^y' Goal in Boston, there to remain in Custody without Bail or Main-prize until the end of the next Session of the Great and General Court or Assembly, unless they shall Sooner be discharged by his Excellency, by the Consent of the Council and Representatives. / — [*Passed July 13.*

1706-6, chaps. 13, 15, 51, 91; 1706-7, chaps. 11, 14-17, 20, 30, 38, 52. Sewall's Diary, ii., 215. Sewall's Letter-Book, i., 333-336. Mass. Hist. Soc. Coll., 2d series, viii., 240-242; 5th series, vi., 116*, 117*, 119*-122*. Streater's case, 5 State Trials, 365; Style, 415; ii., 81d., 179. Ludlow's Memoirs, p. 321. Pepys's Diary, Feb. 9, 1659-60. Foss's Biographica Juridica: 1870, *sub nom.* Newdigate. May's Parliamentary Practice, p. 79, *et seq.*

Post, Nos. 20-25. From the engrossment. Bill in Mass. Archives, lxiii., 31. Province Laws, i., 600, note. Mass. Archives, vii., 222, 287; lxiii., 3, 4, 6, 7, 9, 10, 12, 13, 17, 26, 29, 32, 33, 46; cviii., 43. Legislative Records of the Council, viii., 203, 206, 208, 209, 215, 218, 220-222, 224. Executive Records of the Council, iv., 79, 125, 128, 226. "New England, Board of Trade," vol. 9, Q. 91, in Public Record Office, London. Stat. 2 Anne, chap. 20; 3 and 4 Anne, chap. 14. Resolves, 1696, chap. 12.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SEVENTH DAY OF AUGUST, A.D. 1706.

[No. 20.]

AN ACT FOR THE PUNISHMENT OF SAMUEL VETCH ESQR FOR HIGH
MISDEMEANOUR

Ante, No. 19.
Disallowed by
the privy coun-
cil, Sept. 24,
1707.
From the en-
grossment.
Bill in Mass.
Archives, lxiii.,
55.
Province Laws,
i., 600, note.
Mass. Archives,
ii., 177; lxiii.,
13, 15, 19, 37-40,
45, 47-50, 62, 63;
cxxii., 266, 287,
343. Legislative
Records of the
Council, viii.,
225, 227-230, 233-
240, 243. Ex-
ecutive Records
of the Council,
iv., 562-564.
"New England,
Board of
Trade," vol. 9,
Q. 64-66, 68, 69,
90, 91; vol. 35,
pp. 258, 349, 364,
390, 394; in Pub-
lic Record
Office, London.
"Trade Papers
(Journals),"
vol. 13, p. 123, in
Public Record
Office, London.
Resolves, 1706-
7, chaps. 45, 51,
53, 68, 73, 78-82,
96; 1709-10,
chaps. 9, 51.
Sewall's Diary,
ii., 164, 166.

WHEREAS several Articles of High misdemeanour were Exhibited by the House of Representatives, and Prosecuted before the Great and General Court or Assembly of Her Majesty's Province of the Massachusetts Bay in New England against Samuel Vetch Esquire That is to say, for that the said Samuel Vetch, In Order to carry on an Illegal Trade with the french Kings Subjects and vasals, the Open and Declared Enemy of her Majesties Government and People of this Province, some time in or about the Month of March last past took and received into his Custody, at Boston within this Province, on board the sloop Flying Horse, whereof One Archibald ferguson was then Master, sundry Goods and Merchandize, & carryed and Transported the said Goods and Merchandize to or near a place or harbour called Little Cancer, at Little Canso, and Divers other places on the Coast of Nova Scotia in America, at present Inhabited by the french Kings subjects, and there Did Openly Treat and Trade several of the said Goods & Merchandizes as well, with the said french Kings Subjects, as the Indians the Open and Declared Enemy of Her Majesty's Governm^t and People of this Province, to their Great advantage and Assistance in this time of War/ —

And Whereas the said Articles were fully proved against the said Samuel Vetch by the Oaths of several Witnesses upon his Tryal — And thereupon the said Samuel Vetch by the Judgment of the said General Court stands Convicted thereof —

Be it therefore Enacted by His Excellency the Governour Council & Representatives in General Court Assembled and by the Authority of the same —

That the said Samuel Vetch shall forfeit and pay the sum of Two hundred pounds as a fine to her Majesty, to and for the Defence and support of her Majesty's Government within this her Majesty's Province, and shall further pay the Cost and charge of Prosecution, And that the said Samuel Vetch stand committed to Prison until the said fine and charges be paid into her Majesty's Treasury of this Province — [*Passed September 3.*]

[No. 21.]

AN ACT FOR THE PUNISHMENT OF JOHN BORLAND MERCHANT FOR
HIGH MISDEMEANOUR—

WHEREAS several Articles of high misdemeanour were Exhibited by the House of Rep'sentatives and prosecuted before the Great and General Court or Assembly of her Ma^ys Province of the Massachusetts Bay in New England, against John Borland of Boston Merch^t That is to Say, for that the said John Borland with others, Some time about the latter end of March last past, projected a Voyage for the Sloop flying horse, whereof he was then Two Thirds Owner, to go from Boston to a place called Little-Cancer harbour, and diverse other parts and places on the Coast of Nova Scotia in America, there to carry on a Secret and Illegal Trade and Commerce with the Subjects of the french King, as well as the Enemy Indians there Inhabiting, and in Order thereto the s^d John Borland, with others, on the Twenty ninth of March afores^d did lade on board the s^d Sloop Flying horse one Archibald Ferguson being then Master, a Considerable Cargoe of Goods & Merchandizes, and consigned the same to one Samuel Vetch, In Order to be disposed of in a way of Trade and commerce with the french Kings Subjects, Inhabiting the Coast of Nova Scotia aforesaid, and sundry of the said Goods so Ship'd & Ordered were afterwards in the s^d Voyage sold & disposed of by the s^d Samuel Vetch to the s^d french & Indians, the open & Declared Enemies of this her Ma^ys Government and Liege People of this Province, to the great Assistance of the s^d french & Indians, in this time of War—

And for that the said John Borland the better to conceale and more privately to carry on this Evil designe afores^d Did pretend the s^d Sloop with the s^d Cargo was bound a Voyage to Newfoundland, and accordingly procured the Master of the s^d Sloop to Signe a Bill of Lading of the said Goods for Newfoundland, and gave him pretended Orders for that place, when at the said time his real Orders to the s^d Master were to go to Nova Scotia afores^d and there to carry on the Illegal Trade and Commerce afore mentioned, and to have no regard to his pretended Orders for Newfoundland—

And Whereas the said Articles were fully proved against the s^d John Borland upon his Tryal, and thereupon the s^d John Borland stands convicted thereof by the Judgement of the said General Court/—

Be it therefore Enacted by his Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,

That the said John Borland shall forfeit and pay the Sum of Eleven hundred pounds as a fine to her Majesty, to and for the defence and Support of her Ma^ys Government within this Her Majestys province; and shall further pay the Cost and charge of Prosecution. And that the said John Borland stand committed to Prison until the said fine and charges be paid into her Ma^ys Treasury of this Province—[*Passed September 3.*

Ante, No. 20.
Disallowed by
the privy council,
Sept. 24,
1707.
From the engrossment.
Bill in Mass.
Archives, lxiii.,
65.
Province Laws,
i., 600, note.
Mass. Archives,
lxiii., 19, 21, 41.
Records of the
Superior Court
of Judicature,
1700-1714, fol.
229, 230.

[No. 22.]

AN ACT FOR THE PUNISHM^t OF ROGER LAWSON MERCH^t FOR HIGH MISDEMEANOUR.

Ante, No. 20.

Disallowed by the privy council, Sept. 24, 1707.

From the engrossment.

Bill in Mass.

Archives, lxiii.,

63.

Province Laws,

i., 600, note.

Mass. Archives,

lxiii., 20, 42, 43.

Sewall's Diary,

i., 252.

WHEREAS several Articles of high misdemeanour were Exhibited by the House of Representatives and prosecuted before the Great and General Court or Assembly of Her Ma^y Province of the Massachusetts Bay in New England, against Roger Lawson of Boston Merchant, That is to say, for that the s^d Roger Lawson wth others Some time about the latter end of March last past projected a Voyage for the Sloop flying horse whereof he was then One Third Owner to go from Boston to a place called Little-Cancer harbour, and diverse other parts and places, on the Coast of Nova Scotia in America, there to carry on a Secret & Illegal Trade and Commerce with the Subjects and Vassals of the french King there Inhabiting And in Order thereto the said Roger Lawson with others on the Twenty ninth day of March afores^d did lade on board the said Sloop flying horse, one Archibald Ferguson being then Master, a Considerable Cargo of Goods and Merchandizes, and consigned the Same to one Samuel Vetch, In Order to be disposed of in a way of Trade and Commerce with the french Kings Subjects Inhabiting the Coast of Nova Scotia afores^d, and Sundry of the s^d Goods so ship'd and Ordered were afterwards in the s^d Voyage sold and disposed of by the said Samuel Vetch to the said french & Indians, the open and Declared Enemies of this Her Ma^y Government & Liege People of this Province to the great Assistance of the s^d french & Indians, in this time of War.

And for that the said Roger Lawson the better to conceale and more privately to carry on this Evil Designe afores^d did pretend the s^d Sloop with the s^d Cargo was bound a Voyage to Newfoundland, and accordingly procured the Master of the s^d Sloop to Signe a Bill of Ladeing of the s^d Goods for Newfoundland, and gave him pretended Orders for that place, when at the said time his real Orders to the s^d Master were to go to Nova Scotia afores^d and there to carry on the Illegal Trade and Commerce afore mentioned, and to have no regard to his pretended Orders for Newfoundland.

And whereas the s^d Articles were fully proved against the s^d Roger Lawson upon his Tryal, and thereupon the s^d Roger Lawson stands convicted thereof by the Judgement of the s^d General Court. —

Be it therefore Enacted by his Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same,

That the said Roger Lawson shall forfeit and pay the Sum of Three hundred pounds as a fine to her Majesty, To and for the defence and support of her Ma^y Government within this her Ma^y Province, and shall further pay the Cost and charge of Prosecution. And that the s^d Roger Lawson stand committed to Prison, until the said Fine and Charges be paid into her Ma^y Treasury of this Province — [*Passed September 3.*]

[No. 23.]

AN ACT FOR THE PUNISHMENT OF WILLIAM ROUSE MARINER LATE COMMANDER OF THE SLOOP ANNE A FLAGG OF TRUCE IN THE IMMEDIATE SERVICE OF HER MAJESTY'S GOVERNMENT OF THIS PROVINCE, FOR HIGH MISDEMEANOUR. —

WHEREAS several Articles of high misdemeanour were Exhibited by the House of Representatives, and prosecuted before the Great and General Court or Assembly of her Majesty's Province of the Massachusetts Bay in New England, against William Rouse of Charlestown Mariner, That is to Say, For that the said William Rouse haveing a Commission from his Excellency the Governour of this her Majesty's Province to Transport, in the Sloop Anne, some french Prisoners to Port Royal, and to return to Boston again with such English Prisoners as he should there receive, and being entrusted with the management of that Affair, and arriveing with the aforesaid Sloop Anne at Port Royal aforesaid, in Possession of the French Kings Subjects, Some time in the month of May last past, he the said William Rouse, contrary to the great Trust in him reposed, Did then and there manage and very openly carry on an Illegal Trade with the french Kings Subjects there Inhabiting, and did deliver to and left with the french Kings Governour of Port Royal aforesaid and other of the french Kings Subjects, the open & Declared Enemies of her Majesty's Government and Liege People of this Province, then and there Inhabiting, sundry Goods & Merchandize, for which the said William Rouse received of the french Kings Governour and Subjects, in Barter and Exchange, Beaver, Beaver Stones and other Commodities —

As also for that the said William Rouse presumed to take a french Protection or Pass by Order of the french Governour of Port Royal aforesaid for a Vessel to go on a fishing Voyage upon the Coast of Nova Scotia and other places Adjacent within the Limits and bounds of this her Majesty's Province. And did make use of the said Protection or Pass for the sloop May flower, John Phillips Master, in the said Rouse his Employ, the better to cover and carry on a false and Illegal Trade with the french & Indian Enemys, at present Inhabiting in those parts, with sundry Goods & Merchandize, which the said Rouse did load or cause to be Loaden on board the said Sloop Mayflower for that Intent, and did privately take from on board the said Sloop May flower a great quantity of Beaver & Beaver Stones which the said Phillips had unlawfully Traded for or bought of the french and Indians, and brought the same home to Boston And did also put on board the said Phillips's sloop at Montinicus Sundry Goods to be disposed of by the said John Phillips in a way of Trade to the french & Indians of those parts, Enemys as aforesaid to their great Advantage & Assistance in this time of War —

And whereas the said Articles were fully proved against the said William Rouse by the Oaths of several Witnesses upon his Tryal. And thereupon the said William Rouse by the Judgment of the said General Court Stands convicted thereof. —

Be it therefore Enacted by his Excellency the Governour, Council and Representatives in General Court assembled and by the Authority of the same

That the said William Rouse shall forfeit and pay the Sum of Twelve hundred pounds as a fine to Her Majesty, To and for the Defence and

Ante, No. 20.
Disallowed by
the privy council,
Sept. 24,
1707.
From the engrossment.
Bill in Mass.
Archives, lxiii.,
64.
Province Laws,
i., 600, note.
Mass. Archives,
lxiii., 79. Suffolk Court
Files. Records
of the Superior
Court of Judicature, 1700-
1714, fol. 230,
233. "New
England, Board
of Trade," vol.
9, Q. 63, in Public Record
Office, London.
Resolves, 1707,
chaps. 86, 87.
Sewall's Diary,
ii., 345. Mass.
Hist. Soc. Coll.,
5th series, vi.,
120*, 121*.

Support of her Ma^y's Government within this her Ma^y's Province; and shall further pay the Cost and charge of prosecution, and shall stand committed to Prison until the s^d Fine & charges be paid into her Ma^y's Treasury of this Province — /

And be it further Enacted

That the s^d William Rouse be and hereby is made incapable to sustain any Publick Office within this her Majesty's province / — [*Passed September 3.*]

[No. 24.]

AN ACT FOR THE PUNISHM^T OF JOHN PHILLIPS JUN^R FOR HIGH MISDEMEANOUR —

WHEREAS several Articles of high misdemean^r were Exhibited by the House of Representatives, and prosecuted before the Great and General Court or Assembly of her Ma^y^t Province of the Massachusetts Bay in New England, against John Phillips jun^r of Charlestown Mariner, That is to say For that the said John Phillips jun^r some time in the month of April last past, projected a Voyage to S^t Johns, Port Royal and other places in Nova Scotia, there to carry on and mannage an Illegal Trade and commerce, as well with the french Kings Subjects, as the Eastern Indians, the open & Declared Enemies of her Ma^y^t Govern^m^t & Liege People of this Province, Inhabiting those parts, and in Order thereunto hired the sloop May flower, on pretence of a fishing Voyage to Cape Sables, and put on board the s^d sloop several Goods, Wares and Merchandize, & proceeded his Intended Voyage afores^d to Montinicus, & after that to Panobscot & other places in Nova Scotia afores^d and then and there disposed of many of the Goods and Wares afores^d unto the french and Indians there Inhabiting in a way of Trade and commerce, & had in Exchange for the same Skins, Furs & other things To the great Advantage & Assistance of the said french and Indians in this time of War —

And whereas the s^d Articles were fully proved against the s^d John Phillips jun^r, by the Oaths of Several Witnesses upon his Tryal, and thereupon the s^d John Phillips by the Judgement of the s^d General Court stands convicted thereof —

Be it therefore Enacted by his Excell^y the Governour Council and Representatives in General Court Assembled and by the Authority of the Same

That the said John Phillips jun^r shall forfeit and pay the Sum of One hundred pounds as a fine to her Majesty. To and for the Defence and Support of her Ma^y^t Government within this her Ma^y^t Province, and shall further pay the Cost and charge of prosecution. And that the s^d John Phillips stand committed to prison until the s^d Fine & charges be paid into her Ma^y^t Treasury of y^e Province [Passed September 3.

Act, No. 20.
Disallowed by
the privy coun-
cil, Sept. 24,
1707.
From the en-
grossment.
Bill in Mass.
Archives, lxiii.,
53, 54.
Province Laws,
i., 600, note.
Mass. Archives,
lxiii., 52. Rec-
ords of the
Superior Court
of Judicature,
1700-1714, fol.
230, 233.

[No. 25.]

AN ACT FOR THE PUNISHMENT OF EBENEZER COFFIN MARRINER
FOR HIGH MISDEMEANOUR.

Ante, No. 20.
Disallowed by
the privy coun-
cil, Sept. 24,
1707.

From the en-
grossment
Bill in Mass.
Archives, lxiii,
61, 62.
Province Laws,
i, 600, note.

Mass. Archives,
lxiii., 22, 24, 24,
61, 169. Legis-
lative Records
of the Council,
viii., 234, 238.
Records of the
Superior Court
of Judicature,
1700-1714, fol.
230.

WHEREAS several Articles of high misdemeanour were Exhibited by the House of Representatives and Prosecuted before the Great and General Court or Assembly of Her Maj^{ties} Province of the Massachu- setts Bay in New England against Ebenezer Coffin of the Island of Nantucket Marriner That is to say For that the s^d Ebenezer Coffin being at Port Royal in the Month of May last past, & then and there put in Master of the Briganteen Hope, instead of coming to Boston in and with the said Briganteen, as his Duty was, went to Sicha needu Musketoe point & other places on the Coast of Nova Scotia, Inhabited by the french Kings subjects & the Eastern Indians, the Open & Declared Enemy's of her Maj^{ties} Government & People of this Province, In Order to treat and Trade with the said french, having taken into the said Briganteen at Port Royall afores^d, from Captain Rouse out of the flagg of Truce, sundry English Goods for that end And the said Ebenezer Coffin being with the said Briganteen at the places before- mentioned, then and there met with several of the french Kings sub- jects, & sold & Delivered to them sundry goods and Merchandizes, for which he had from them in Exchange, Beaver and other furs, to the great advantage of the said french Kings subjects in this time of War / —

And Whereas the said Articles were fully proved against the s^d Ebenezer Coffin by the Oaths of Several Witnesses upon his Tryal; And thereupon the said Ebenezer Coffin by the Judgment of the s^d General Court stands convicted thereof —

Be it therefore Enacted by his Excellency the Govern^r Council & Rep- resentatives in General Court Assembled & by the Authority of the same

That the said Ebenezer Coffin shall forfeit & pay the Sum of fifty pounds, as a fine to her majesty, to & for y^e Defence and support of her majesty's Government within this her maj^{ties} Province, and shall further pay the Cost and charge of Prosecution, And that the s^d Eben- ezer Coffin stand committed to Prison untill the said fine & charges be paid into her Ma^{ties} Treasury of this province. — [*Passed September 3.*

PRIVATE ACTS,

PASSED 1711-12.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SEVENTEENTH DAY OF OCTOBER, A.D. 1711.

[No. 26.]

AN ACT TO REVERSE THE ATTAINDERS OF GEORGE BURROUGHS AND
OTHERS FOR WITCH-CRAFT —

Forasmuch as in the year of our Lord one Thousand Six hundred ninety two Several Towns within this Province were Infested with a horrible Witchcraft or Possession of devils; And at a Special Court of Oyer and Terminer holden at Salem in the County of Essex in the same year 1692. *George Burroughs* of Wells, *John Procter*, *George Jacob*[s,*] *John Willard*, *Giles Core* and . . . his wife, *Rebecca Nurse*, and *Sarah Good* all of Salem aforesaid. *Elizabeth How* of Ipswich, *Mary Eastey*, *Sarah Wild* and *Abigail Hobbs* all of Topsfield, *Samuel Wardell*, *Mary Parker*, *Martha Carrier*, *Abigail Falkner*, *Anne Foster*, *Rebecca Eames*, *Mary Post* and *Mary Lacey* all of Andover, *Mary Bradbury* of Salisbury, and *Dorcas Hoar* of Beverly Were severally Indicted convicted and attainted of Witchcraft, and some of them put to death, others lying still under the like Sentence of the said Court, and liable to have [y]e same Executed upon them. —

The Influence and Energy of the Evil Spirits so great at that time acting in and upon those who were the principal accusers and Witnesses proceeding so far as to cause a Prosecution to be had of persons of known and good reputation, which caused a great Disatisfaction and a Stop to be put thereunto until their majesty's pleasure should be known therein.

And upon a Representation thereof accordingly made, Her late Majesty Queen Mary the Second of blessed Memory, by Her Royal Letter given at Her Court at Whitehall the fifteenth of April 1693. was Graciously pleased to approve the care and Circumspection therein; and to will and require that in all proceedings ag^t persons accused for Witchcraft, or being possessed by the devil, the greatest moderation and all due circumspection be used, So far as the same may be without Impediment to the ordinary course of Justice.

And Some of the principal accusers and Witnesses in those dark and severe prosecutions have since discovered themselves to be persons of profligate and vicious conversation.

Upon the humble Petition and Suit of several of the s^d persons and of the Children of others of them whose Parents were Executed.

Be it Declared and Enacted by his Excellency the Governor, Council and Representatives in General Court assembled and by the Authority of the same

That the several convictions Judgements and Attainders against the

Ante, No. 16.
No engrossment.
From a copy of the bill in the office of the clerk of the courts of Essex County.
Printed copy in the possession of the Editor.
Mass. Archives, cxxxv., 125.
Legislative Records of the Council, viii., 443, 497; ix., 49, 155, 159. *Executive Records of the Council*, v., 475.
Essex County Court Files.
Dr. Moore's Supplementary Notes on Witchcraft, p. 10.

* In another, recent, hand in the manuscript copy at Salem.

said *George Burroughs, John Procter, George Jacob, John Willard, Giles Core and Core, Rebecca Nurse, Sarah Good, Elisabeth How, Mary Easty, Sarah W[ild,*] Abigail Hobbs, Samuel Wardell, Mury Parker, Martha Carrier, Abigail Falkner, Anne Foster, Rebecca Eame[s,*] Mary Post, Mary Lacey, Mary Bradbury and Dorcas H[oar,*]* and every of them Be and hereby are reversed made and de[clared*] to be null and void to all Intents, Constructions and purposes wh[atso*]ever, as if no such Convictions, Judgments or Attainders had ever [been*] had or given. And that no penalties or forfeitures of Goods or Chattels be by the said Judgments and attainders or either of them had or Incurr'd.

Any Law Usage or Custom to the contrary notwithstanding.

And that no Sheriffe, Constable Goaler or other officer shall be Liable to any prosecution in the Law for anything they then Legally did in the Execution of their respective offices. — [*Passed November 2.*]

* Manuscript mutilated.

[No. 27.]

AN ACT* FOR VESTING A CERTAIN STRIP OR PIECE OF LAND, IN
BOSTON, IN EZEKIEL LEWIS, GENTLEMAN, AND HIS HEIRS. [*Passed*
November 9.

No engrossment. Province Laws, i., 686, note. Mass. Archives, xvii, 276, 278, 279.
Legislative Records of the Council, viii., 160, 163, 168. Suffolk Registry of Deeds,
lib. 23, fol. 139, 153.

* No copy of this act has been discovered, but the title and the records referred to
sufficiently show its purport.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWELFTH DAY OF MARCH, A.D. 1711-12.

[No. 28.]

AN ACT IMPOWRING SIMON WILLARD ADMINISTRATOR *DE BONIS NON ADMINISTRATIS, CUM TESTAMENTO ANNEXO* OF THOMAS DOWNING LATE OF SALEM WITHIN THE COUNTY OF ESSEX MERCHANT DECEP TO RECOVER AND RECEIVE THE GOODS CHATTELS RIGHTS AND CREDITS OF THE SAID DECEP—

From the engrossment.
Province Laws, l., 686, note.
Mass. Archives, xvii., 284-287.
Legislative Records of the Council, ix., 184.
Essex Probate Records, book 307, pp. 432, 433; book 308, p. 135; book 309, p. 355; book 310, p. 181; book 311, p. 157.
Essex Registry of Deeds, book 13, leaf 15; book 41, leaf 261.

WHEREAS Thomas Downing late of Salem within the County of Essex merchant dece^d dyed Seized of a personal Estate of the Value of Six hundred pounds, besides a House and Small peice of Land in Salem aforesaid, and made his Last Will and Testament and Appointed Exec^t who refused to take upon them the burden of the Executorship whereupon Administration with the Will annex'd was Granted to his Widow who is also now Dead Leaving all or the greatest part of the Estate whole and intire, Since whose Decease the Same together with the Bonds Bills and Bookes of Accompt are imbezel'd and Concealed; whereby the said Admini^r is unable to pay and Satisfy two Judgem^t recovered against him for the Sum of One hundred and Sixty pounds and other Debts of the Dece^d or to Call in and receive the Debts Oweing to the Estate the Bonds Specialtys and Books of Accompts being Imbezel'd and Conveyed a way, thō Some of the Creditors are so just and honest as to Acknowledge their Debts and Ready to pay the Same so that their Bonds or Specialties be Delivered up, or they otherwise legally Discharged of the same, as the said Admini^r in and by his Petition hath Set forth to this Court. —

Be it Therefore Enacted by his Excellency the Governo^r Council and Representatives in General Court Assembled and by the Authority of the Same

That the said Simon Willard Admini^r as aforesaid Be and hereby is fully Authorized and Impowred to Demand sue for Recover and Receive all Debts and Dues to the Said Estate Owing from any Person and Persons whomesoever And his Discharge to them for the Same Shall be as good Effectual and Available in the Law to Acquit them thereof as if their Bonds Bills or Specialties were Delivered up and Cancelled/— [*Passed March 20, 1711-12.*]

PRIVATE ACTS,

PASSED 1712-13.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 1712.

[No. 29.]

AN ACT IMPOWRING THEODOSIA SHERMAN (LATE CLARKE) THOMAS MAWDSLEY AND EBENEZAR MAWDSLEY GUARDIANS OF THE FOUR CHILDREN OF JOHN MAWDSLEY AND HANNAH HIS WIFE (LATE CLARKE) BOTH DECEASED, BEING MINORS TO MAKE SALE OF LAND./—

WHEREAS Thomas Clarke of Boston within the County of Suffolk shopkeeper, many years since deed by Deed of Gift, by him Executed Did settle upon his son Thomas Clarke mariner and the Heirs of his Body, A Certain Messuage, Tenement or Dwelling House with the Land thereto belonging, situate in Boston, fronting to Cornhill Street, since so named. And the said Thomas Clarke the son Departed this Life Divers years past, Leaving Issue only Two Daughters named Hannah and Theodosia; Hannah intermarried with John Mawdsley of Dorchester, both since deed: left Issue Four Children Viz^t Two sons and Tw Daughters all within age. Theodosia intermarried with John Sherman mariner, who for some time past has been Absent beyond sea, and not known to be alive./—

And Whereas in the Time of the late Desolation made by Fire within the Town of Boston, the Housing and Buildings on the said Land were Demolished and Consumed and the present proprietors utterly unable to rebuild the same, having no other Estate left for their support but the Land which is of no Improvement but for building the said Children being all young, One of 'em not more than ffour years Old and a Constant Charge for Nursing, as in and by the Petition of the said Theodosia Sherman, Thomas Mawdsley and Ebenezar Mawdsley to this Court is set forth; Humbly Praying (Together with Judith Grafton, Late Relict Widow of the said Thomas Clarke jun^r and Tenant in Dower in the premisses) That they may be Impowred to make sale of the said Land for the benefit and Advantage of the said Minors, their part of the produce thereof to be put forth at Interest on good security and the Income thereof to be Employed towards the Charge of their bringing up./—

Be it Enacted by his Excellency the Governour, Council & Representatives in General Court Assembled and by the Authority of the same

That the said Theodosia Sherman, as if sole, Thomas Mawdsley and Ebenezar Mawdsley Guardians as afore said with the said Judith Grafton, Tenant in Dower, Be and hereby are Licens'd Authorized and fully Impowred to bargain sell and Convay the aforesaid House Lot Yard Garden and Land with the Little outhouse thereon, members and Appur^{tes} belonging at a Valuable Rate and price; and to seal and Exe-

From the engrossment.
Province Laws, i., 704, note.
Mass. Archives, xiv., 397, 399.
Legislative Records of the Council, ix., 186, 196, 197, 208.
Suffolk Registry of Deeds, lib. 11, fol. 72-73; lib. 29, fol. 109, 110. Resolves, 1704-5, chap. 52; 1705-6, chap. 61.
Laws and Resolves of Massachusetts (ed. of 1889), 1791, chap. 60.

cute a good sufficient and Legal Deed or Deeds. for Convaying and passing away the same in a good and pure Estate of Inheritance in Fee, the aforementioned Taile or any Words of that Construction or Intendment in the Deed of settlement from Thomas Clarke first within Named notwithstanding.—

Saving to the aforementioned Judith, in Lieu of Her Dower, one Third part of the Yearly Interest and Improvement made of the money produced by the sale of the said Land for and During her Term; Unless she agree otherwise.—[*Passed June 12.*]

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTIETH DAY OF AUGUST, A.D. 1712.

[No. 30.]

AN ACT FOR TAKING OFF THE ENTAILE AND VESTING THE FEE
SIMPLE OF A PEICE OF LAND IN BOSTON IN JOHN CLARKE ESQ^a AND
HIS HEIRS THE PRESENT TENANT IN TAILE, FOR AN EQUIVALENT
PROPOS'D. / —

WHEREAS John Clarke of Boston within the County of Suffolk Physician, upwards of Forty Years Since dece^d dyed Seized in his Demesne as of Fee of a Certain Messuage Tenement or Dwelling House with a Large yard and Garden adjoining and belonging, Situate at the Northerly End of the Town of Boston aforesaid on the Westerly Side of Fish Street and a Wharffe with Some Buildings thereon, Lying on the Easterly Side of the Said Street, and a Right in the Flatts to the Seaboard thereof; All which he Devised, in and by his Last Will and Testament to his only Son John Clarke (Since dece^d) and his heires male of his body in Tail; and are now descended and Come to the hands of John Clarke of Boston aforesaid Esq^r Grandson [of*] John Clarke first above Named; Who by his Petition has Set forth, That [the*] said Buildings being old are fain into Despair; notwithstanding the Disbursement of Considerable Sums of money by his Father, in his life time, and Since his Death by himselfe, for the Repairing and Up-holding of the Same; and will soon become ruinous without a further & Greater [expen*]ee thereon; which he Saith he is unable to Advance without appa[rent w*]rong to his Family, to have the whole Estate pass from them to [a female?*] Colateral heir in failure of his Leaving a Male heir Humbly [proposi*]ng that if he may hold and Enjoy to him his heirs and Assignes [foreve*]r in Fee part of the afore Said Land on the Westerly side of Fish Street [viz*]! The Northerly part thereof abutting on Gallops Alley to Contain Thirty two Feet in breadth from the Said Alley Southerly, and One hundred and Fifty feet in Depth (which will not be one third part of the Breadth of the Whole Land on the upper Side of the Street) He will in Lieu thereof for the Advancing and better Improvement of the remaining Estate Taile at his own Cost and Charge build and Carry out the Wharffe on the Easterly Side of the Said Fish street One hundred Feet further in Length on the Sea-board of full Thirty Two feet in breadth throughout, and to Erect & fully Finish a Building or Warehouse thereon of Sixty feet in Length Eighteen Feet wide and fourteen feet Stud / —

His only Brother William Clarke the next heir in Taile to the Premisses [in Failure of the Petitioner's?*] Male heires having agreed to And Accepted [the said proposal and equi?*]valent. / —

* Engrossment mutilated.

From the engrossment.
Province Laws, i., 704, note.
Legislative Records of the Council, ix., 208, 222. Suffolk Probate Records, lib. 1., pp. 434-436; lib. 8., pp. 156, 159, 192, 211; lib. 27., pp. 1-3; lib. 29., pp. 438-444; lib. 66., pp. 472-475. Suffolk Registry of Deeds, lib. 120, fol. 139-143. Sewall's Diary, ii., 308, 320, 334-337, 361.

[*Be it therefore enac**]ted by his Excellency the Governour Council
[and Representatives in Gener*]al Court Assembled and by the Authority
of [*the same**]

[That the aforesaid?*] Proposal & Equivalent be Accordingly Accep[ted and it is hereby ordered?*] upon performance thereof on the part [of the said John Clarke by his?*] Extending building and Carrying the afores^d [wharfe*] One hundred feet further out in Length to the Seaboard of the [brea*]dth of Thirty Two feet throughout, and Erecting and Compleatly Finish[ing*] a Building or Warehouse thereon of the Dimentions afore Expressed. the aforementioned peice part or parcell of the Land lying on the Westerly Side of the afores^d Street Viz! the Northerly part thereof abutting on Gallops Alley and running One hundred and Fifty feet in Depth backward from the Said Street to the Fence of Samuel Flack dece^d Containing the breadth of Thirty Two feet throughout from the Said Alley Southerly Be and hereby is fully Vested in the Said John Clarke his heirs and Assignes To be holden of him and them of and in a pure absolute and indefeasable Estate of Inheritance in Fee Simple for Ever without any manner of Condition reversion Entailment or Limitation of use or uses whatsoever The Devise and Bequest or any Clause Expression or words of Entail in the Will of the Said John Clarke first Named notwithstanding/—
[Passed August 22.]

* Engrossment mutilated.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SECOND DAY OF OCTOBER, A.D. 1712.

[No. 31.]

AN ACT FOR SETTLEING THE LANDS OF JUSTINIAN HOLDEN LATE OF
CAMBRIDGE DECE^d

WHEREAS Justinian Holden Late of Cambridge in the County of Middlesex Housewright dece^d made and Published a Certain Instrument in writeing purporting his Last Will and Testament concerning the bestowment and Disposition of his Estate both Real and Personal bearing date the 12th day of August 1691 and dying Seized in his own Demesne as of Fee of a Certain Farm house barn Orchard Land and Meadow, Adjoyning, and Several other Allotments of Land Lying Situate partly in Cambridge aforesaid and partly in the Town of Watertown Adjoyning, of the Contents of One hundred and Forty Acres or thereabouts in the whole Devised and bequeathed his Said Lands to and among his Four Sons Namely Samuel John, Isaac, and Joseph Holden and his Three Daughters, Namely Mary, Grace and Elizabeth in manner as in and by his Said Will is Set forth and Expres't and Subjoyns a Clause or Paragraph in these words That is to Say Item my Will is that what Lands I have given to my Sons above named I Give unto them and their heirs Lawfully begotten of their Body and if any of them Shall decease without Issue their Lands Shall go to the Surviving Sons Equally

And Whereas the Said Four Sons aforenamed have Set forth that the Said Lands are very mean and poore and by the Devise of their Father aforesaid Parcelled out into Nineteen Several Peices or Alotments So intermixed One among another that the making & fenceing Out Necessary ways across the Divisions will be Such an intollerable Charge that all the Timber and Stone that can be procured or gotten on the premisses is not Sufficient to Fence the Same one time; and the Living is Cut out in so many parcells as Renders it uncapable of Improvement in any Measure for the Support of their Familys Who are greatly Multiplied with a Numerous Posterity Since the Testators decease And must necessarily Quit the Estate to provide for themselves and Familys Elsewhere Unless they can be Allowed to pass away their Right and Interest to and among One another So as to make a Comfortable Living for one or more of them and will probably fall into the hands of Strangers and the Minde and Intent of the Testator be thereby Defeated by the Estate passing out of his Name and Family. — For prevention whereof

Be it Declared and Enacted, by his Excellency the Governour Council and Representatives in General Court Assembled and by the Authority of the Same

That it Shall and may be Lawfull to and for the aforenamed Samuel,

From the engrossment.
Province Laws,
i., 704, note.
Legislative Records of the
Council, ix.,
233, 236. Middlesex Probate
Files, 8246.

John, Isaac, and Joseph Holden or any One or more of them to Alienate Sell Convey and Dispose of their Several and Respective parts Shares and Interest of and in the aforementioned Lands and Appur^{cs} to any One or more of their other Bretheren and to Execute good and Sufficient Deeds in the Law for passing the Same To be holden of Such purchaser or purchasers Respectivly their heirs and Assignes for Ever in Fee The Will of their Said Father Justinian Holden or any proviso limitation Clause or Article therein Contained Seemingly to the Contrary thereof in any wise notwithstanding [*Passed October 30.*]

PRIVATE ACT,

PASSED 1716-17.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MAY, A.D. 1716.

[No. 32.]

AN ACT FOR THE CHANGE OR ALTERATION OF THE SIR NAME OF
SPENCER BENNETT *ALIAS* PHIPS OF CAMBRIDGE ESQ^r.—

WHEREAS the Honourable S^t William Phips Kn^t Dyed Seized of a very valuable Estate as well Real as personal, and in and by his last Will and Testament (in Consideration of the great Love and Affection which he had to his Lady Dame Mary Phips since deceased and her Nephew the aforesaid Spencer) Gave and Devised his Estate unto the said Spencer adopting him for his Son, at the same time Expressing and Declaring his Desire and Intention That the said Spencer should take upon him the Sir Name of Phips and thereby bear up and perpetuate his own Name

And Whereas the said Spencer in a Gratefull and dutifull Compliance with the Will and Intention of the said Sir William Phips hath on all occasions hitherto annexed the Sir Name of Phips unto his own proper Name of Bennett and is desirous for the future both for himselfe and his Posterity to prevent the Inconvenience of having two Sir Names as also more fully to comply with the Design and Desire of his Benefactor. For Effecting whereof

Be it Enacted by the Lieutenant Governour Council and Representatives in General Court Assembled and by the Authority of the same

That the said Spencer Bennett *alias* Phips for the future, bear and be called by the Sir Name of Phips and no other and that the Name of Bennett for ever hereafter cease from being any part of his Sir Name and the Sir Name of Phips only descend also to his Posterity as effectually and to all Intents and Purposes in the Law as if the same had been the original and proper Sir Name of the said Spencer, and he had been descended from the said Sir William Phips any Law usage or Custom to the contrary Notwithstanding [*Passed June 23.*]

From the engrossment.
Province Laws, II., 66, note.
Legislative Records of the Council, x., 73, 80, 85. Journals of the House of Representatives, 1716, June 19, 21-23. "New England, Board of Trade," vol. 83, p. 278; "Trade Papers (Journals)," vol. 21, p. 235, in Public Record Office, London. Sewall's Diary, II., 88.

PRIVATE ACTS,

PASSED 1717-18.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-THIRD DAY OF OCTOBER, A.D. 1717.

[No. 33.]

AN ACT FOR TAKING OF THE ENTAIL AND VESTING THE FEE SIMPLE
OF CERTAIN LANDS IN SCITUATE, IN THOMAS BRIANT FOR AN EQUIV-
ALENT PROPOSED BY JOSEPH BRIANT TO WHOM THE SAID LANDS
WERE GIVEN IN TAIL—

WHEREAS John Briant Sen^r formerly of Scituate within the late Colony of New Plymouth in New England, upwards of Thirty years since deceased, dyed Seized in his Demesne as of fee of a certain Tract or Parcel of Lands with Housing and building* standing upon and belonging to the Same Containing Forty four Acres in the whole Thirty seven Acres thereof being Upland and Swamp land, and Seven Acres thereof being Meadow Land, all lying and being in Scituate aforesaid, all which he the said John Briant Devised in and by his last Will and Testament to his two Sons Joseph Briant and Thomas Briant aforesaid, and the Heirs of their Bodies in Tail and thereupon some time after the Death of the said John Briant, the said Joseph Briant and Thomas Briant made a Division of the afores^d Devised Lands and Meadows in equal halves between them, by a Line beginning at a Stake and Stones standing by the Road Side Twenty eight Rods Westerly from John James's Range, and runneth near South and by East half a Point Southerly to a Pine Tree in the Swamp, and from thence runneth South South East to a white oak Tree standing near the Meadow, and from said Stake first mentioned North West half a Point Northerly to a Pine Tree at the head of the Lot, and the said Meadow Land they divided by a Line beginning by the Upland Side, and thence runneth near East and by South to a Stake standing by the River. And agreed that the said Joseph Briant should have the Easterly Side or half part of the Upland abovesaid, and the Southerly half part of the Meadow aforesaid; And that the said Thomas Briant should have the Westerly half part of the Upland aforesaid, and the Northerly half part of the Meadow aforesaid as divided by the Lines aforesaid, Whereby the said Joseph Briant became Seized in Severalty as Tenant in Tail of the said half part of the Devised Premises, which said Lands being so small Accomodations for two Settlements They the said Joseph Briant and Thomas Briant apprehending that it would be very inconvenient and prejudicial to them both to Settle upon their respective parts, The said Joseph Briant for a valuable Consideration, conveyed his said half part to Thomas Briant aforesaid. But least any

From the en-
grossment.
Province Laws,
ii., 93, note.
Legislative Rec-
ords of the
Council, x., 172,
186, 199. Jour-
nals of the
House of Rep-
resentatives,
1717, Nov. 5, 13,
20. Plymouth
Probate Rec-
ords: Willis,
vol. 1, part 1, p.
31. Plymouth
Registry of
Deeds, book 8,
pp. 222-223;
book 13, p. 1.

* Possibly "buildings"—obscure in the engrossment.

Illconvenience should arise respecting the Title made to the said Thomas Briant by reason of the aforesaid Entail, the said Joseph and Thomas Briant have petitioned that the Entail may be taken off from the said Joseph Briants part aforesaid, and that his said Conveyance may be confirmed, And that he the said Thomas Briant may have, hold, and Enjoy the Same to him his heirs and Assignes for ever in fee. And the said Joseph Briant having certain Lands in fee simple lying and being in Scituate aforesaid Viz: Sixteen Acres of Upland lying at a Place called Newfound Marsh, bounded, beginning at an ancient marked black oak Tree and runneth near East Thirty two Rods to A stake and Stones, then runneth near North Eighty five Rods to a Red Oak, then runneth near West Twenty eight Rods to a Stake and Stones by the Swamp Side, then runneth streight to the first named black Oak & Also three Acres of Swamp Land adjoining to the said Sixteen Acres Bounded Westerly on the Herring Brook, And Southerly and Easterly on the Common Lands of Scituate aforesaid, And Northerly partly on the said Sixteen Acres and partly on the said Briants other Lands And also three Acres of Meadow Land lying at a Place called Gravelly Beach Bounded Easterly on the Meadow Land of Joseph Randal Northerly and Westerly on the Meadow Land of Joseph and Stephen Curtise, and Southerly on the North River, And also two Acres of Salt Meadow lying in Marshfield at a Place called the Cove Crick Bounded beginning at a Stake at the Crick Side and runneth by a Ditch by George Kings Meadow Twenty four Rods to Samuel Curtises Meadow, And then runneth near North and by East with the said Ditch Seventeen Rods and an half to a Stake by the Ditch Side, And then runneth East and by South Thirty one Rods to a Stake standing by the Cove Crick, and then runneth with the said Cove Crick to the first named Corner The said Joseph Briant humbly proposeth that the afores^d Peices and Parcels of Lands and Meadows belonging to him in fee as aforesaid, may be made an Estate to him the said Joseph Briant and the Heirs of his Body in Tail as an Equivalent for the said Lands which the Entail is taken off from, which will be of greater Advantage to the Heirs in Tail then the afores^d Entailed Lands are ever like to be. And all the Children of the s^d Joseph Briant now living which by Possibility might Inherit the afores^d Entailed Estate have agreed and accepted the afores^d Proposal and Equivalent.

Be it therefore Enacted by his Excellency the Governour, Council and Representatives in General Court assembled and by the Authority of the Same

That the afore recited Proposal and Equivalent be accordingly accepted and agreed to And that the aforesaid Conveyance made by the said Joseph Briant to the said Thomas Briant shall be and stand good and is hereby Confirmed

And it is hereby declared and Enacted

That the said Easterly half part of the afores^d Thirty Seven Acres of Upland and Swamp Land, And the Southerly half part of the aforesaid Seven Acres of Meadow Land as divided by the Lines aforesaid Be and hereby is fully Vested in the said Thomas Briant his Heirs and Assignes To be holden of him and them of and in a pure, absolute and Indefeasable Estate of Inheritance in fee simple for ever, without any manner of Condition, Reversion, Entailment, or Limitation of Use or Uses whatsoever The Devise and Bequest or any Clause, Expression or Words of Entail in the Will of the said John Briant Notwithstanding—

And Be it further Enacted by the Authority afores^d

That the aforesaid Sixteen Acres of Upland, Three Acres of Swamp Land, and Three Acres of Meadow Land lying and being in Scituate

aforesaid, and the aforesaid Two Acres of Salt Meadow Land lying in Marshfield aforesaid, all said Peices and Parcels of Upland Swamp Lands & meadow Land being Abutted and Bounded as aforesaid Be and hereby is fully Vested in the said Joseph Briant and the Heirs of his Body lawfully begotten for ever To be holden by him and them of and in a pure and perfect Estate of Inheritance in Fee Tail General.
[*Passed November 20.*]

[No. 34.]

AN ACT ENABLING WILLIAM READ TO BRING FORWARD HIS APPEAL FROM THE SESSIONS OF THE PEACE IN MIDDLESEX TO THE SUPERIOUR COURT OF JUDICATURE TO BE HELD IN CHARLESTOWN FOR THE COUNTY OF MIDDLESEX

From the engrossment.
Province Laws, II., 93, note.
Journals of the House of Representatives, 1717, Nov. 8, 9, 13, 18, 19. Legislative Records of the Council, x., 179, 190, 199.
Middlesex Court of Sessions: Files, Dec., 1717; July, 1718; Records, vol. I., pp. 331, 333-338.
Suffolk Court Files, 12464.
Records of the Superior Court of Judicature, 1715-1721, fol. 213, 260.

WHEREAS William Read of Lexington by his Petition to this Court hath Shewed forth That he Apprehends him Self greatly Injured by a Sentence of the Court of Sessions of the Peace for the County of Middlesex in a Cause between the Selectmen of the said Town and Thomas Kendall of the one part and the S^d William Read on the other part, from which Sentence he Appealed to the Superiour Court of Judicature which was holden at Cambridge in July last past but by mistake filed his reasons of Appeal in the Clerks Office of the Court of Sessions instead of filing the Same in the Clerks Office of the Superiour Court appealed to; Whereby he is precluded the benefit of his Appeal And thereupon praying this Court to Enable him to bring forward the said Cause by Appeal before the said Superiour Court at their next Sessions in the said County/—

Be it therefore Enacted by his Excellency the Governour Council and Representatives in General Court Assembled, and by the Authority of the same

That the Said William Reed be, and hereby is Impowred to bring forward the said Cause by way of Appeal to be heard and Tryed at the next Superiour Court of Judicature Court of Assize & General Goal Delivery to be holden at Charlestown for the County of Middlesex upon the Last Tuesday in January next Ensueing And the Honourable Judges of the said Court are hereby fully Authorized to Try the same Accordingly *Provided* the s^d William Reed file his Reasons of Appeal in the Clerks Office of the s^d Superiour Court Seven Days before the said Courts sitting as The Law Directs—Any Law Usage or Custom to the contrary notwithstanding. [*Passed November 20.*]

[No. 35.]

AN ACT IMPOWRING THE JUDGE OF PROBATE TO ALLOW A DIVISIONAL AGREEMENT MADE BETWEEN THE CHILDREN & HEIRS OF EDWARD DENISON LATE OF ROXBURY YEOMAN DECED./—

WHEREAS the s^d Edward Denison in and by his Last Will and Testament did Order that after the decease of his Wife his whole Estate remaining should be divided into two equal parts and that his Son William Denison should have the one half thereof for his portion and that the other half thereof should be equally divided between his Daughters.

And Whereas the widow of the s^d Edward Denison is lately deced and three Indifferent persons have been chosen to apprise the Real Estate of the said Edward Denison deced and sworne to the faithful performance thereof;

And Whereas all the Children of the Testator and their legal Representatives (Except two, one being a Minor and the other refusing to come to any Division) according to the said Apprizement, have proceeded to divide the s^d Estate into two equal parts according to the Will, the one half thereof was divided as equally as could be into four parts, To wit, Between the Surviving Daughter of the said Edward Denison and the legal Representatives of his other Daughters who are since deced and Lotts were solemnly drawn for their several shares and the other half of the s^d Estate being given by the Will of y^e s^d Edward Denison to his son William Denison aforementioned; he together with his surviving Sister and the heirs of his Sisters deced (Except as aforesaid) caused Articles of Partition between them to be made of y^e s^d Estate accordingly and have Executed y^e same and made their Acknowledgments thereof before the Judge of Probate for the County of Suffolk — . —

But Forasmuch as the said Minor cannot legally Execute the said Deed of Partition and John Reiner who is Interested in the s^d Estate neglects or refuses to Execute y^e same, the s^d William Denison (the son) in behalf of himself and the rest who have agreed to y^e said Division hath Supplicated this Court to direct the Hon^{ble} Samuel Sewall Esq^r Judge of Probate for y^e said County of Suffolk to allow the s^d Divisional Agreement to be a Settlement of the Testators Real Estate Notwithstanding the refusal of the said Reiner and because the Minor is not capable to Act to appoint a Guardian on his behalf &c —

Be it therefore Enacted by His Excellency the Governour Council and Representatives in General Court Assembled and by the Authority of the same,

That the Judge of Probate of Wills &c for the County of Suffolk be and hereby is Directed and Impowred to allow of Ratify and Confirm the Divisional Agreement so as aforesaid made as and for a Settlement or Division of the Estate in housing and Lands of the Testator conformable to his Will, And so the s^d Settlement being so Approved shall be of as full force and validity in the Law as if the said John Reiner had Executed and Acknowledged the same, And the said Judge of Probate is hereby directed to appoint a Guardian for the s^d Minor whose consent to the said Divisional Agreement shall be as effectual for the Confirmation thereof as if the said Minor were of full age and had Executed the same; Any Law usage or Custom to the contrary notwithstanding/— [Passed November 21.

From the engrossment.
Province Laws, li., 93, note.
Journals of the House of Representatives, 1717, June 12; Nov. 20, 21.
Legislative Records of the Council, x., 197, 198, 202. Suffolk Probate Files, 3885: Records, lib. 5, p. 92; lib. 6, p. 12; lib. 20, pp. 153-163.

[No. 36.]

AN ACT ENABLING JOHN PORTER TO BRING FORWARD AN APPEAL TO THE SUPERIOUR COURT TO BE HELD IN MAY NEXT IN THE COUNTY OF ESSEX

From the engrossment.
Province Laws, li., 93, note.
Journals of the House of Representatives, 1717, Nov. 14, 19, 21. Legislative Records of the Council, x., 192, 200, 202. Records of the Superior Court of Judicature, 1715-1721, fol. 264, 302.

WHEREAS John Porter of Wenham by his Petition to this Court hath Shewed forth That in the Month of June 1714 the Court of Sessions for the County of Essex appointed a Committee to go to Wenham to Enquire and View whether M^r Freeborn Bolch of Beverly had any Convenient highway laid out to his Land in Wenham And altho the Selectmen of the said Town had laid out a highway over the Petitioners Land yet the said Committee laid out another way runing thro the Petitioners Land very much to his Damage & made report of their doings therein to the s^d Court of Sessions the 28th of December One Thousand Seven hundred and fourteen who Contrary to Law Approved thereof and Confirmed the same in the Petitioners Absence & so he had no Opportunity to Appeal from their Judgement which he Conceived Wrong and Erronious And therefore prayed that this Court would Grant him the benefit of an Appeal from the said Courts Judgement to the next Superiour Court of Judicature & Court of Assize to be holden for the said County of Essex that so he might have a fair Tryal &c

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court Assembled and by the Authority of the same

That the said John Porter be and hereby is Enabled to Appeal from the said Judgement of the Court of Sessions of the peace to the next Superiour Court of Judicature Court of Assize and General Goal Delivery to be holden at Ipswich for the County of Essex on the Third Tuesday of May next And the Judges of the said Superiour Court &c are hereby Authorized to hear and hold plea of the said Cause and proceed to Judgement in the premisses According to the Course of the Common Law *Provided* the said John Porter file his reasons of appeal in the Clerks Office of the said Superiour Court of Judicature Court of Assize and General Goal Delivery Seven Days before the Setting of the said Court Any Law Usage or Custom to the Contrary Notwithstanding.—[*Passed November 21.*]

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SIXTH DAY OF FEBRUARY, A.D. 1717-18.

[No. 37.]

AN ACT TO ENABLE JOSEPH BUCKMINSTER BENJAMIN BRIDGES AND JONAS EATON ON BEHALF OF THE TOWN OF FRAMINGHAM TO BRING FORWARD THEIR APPEAL FROM THE SESSIONS OF THE PEACE IN MIDDLESEX TO THE COURT OF ASSIZE AND GENERAL GOAL DELIVERY TO BE HELD IN CAMBRIDGE FOR THE COUNTY OF MIDDLESEX./

WHEREAS Joseph Buckminster Benjamin Bridges and Jonas Eaton for and on behalf of the Town of Framingham by their Petition to this Court have shewed forth, that they apprehend the said Town is greatly injured by a Sentence of the Court of Sessions of the Peace for the County of Middlesex, in a cause between the Select Men of Weston on the one part and the Select Men of Framingham on the other part, from which Sentence two of the said Petitioners in behalf of the said Town of Framingham appealed to the Court of Assize and General Goal Delivery which was holden at Charlestown in January last past which appeal was accepted and allowed by the said Court, but by mistake the Appellants did neglect to enter into Recognizance for the Prosecution of the said appeal until four dayes next after the said Sentence and then out of Court before a Judge, whereas It ought to have been in Court within two Hours after the said Sentence was pronounced whereby the said Petitioners were precluded the Benefit of their said appeal. and thereupon Praying this Court to Enable them to bring forward the said Cause by appeal before the said Court at their next Sessions in the said County.

Be it therefore Enacted by his Excellency the Governour Council and Representatives in General Court assembled and by the authority of the same

That the said Joseph Buckminster, Benjamin Bridges and Jonas Eaton in behalf of the said Town of Framingham Be and hereby are Impowred to bring forward the said Cause by way of appeal to be heard and tryed at the next Court of Assize and General Goal Delivery to be held at Cambridge for the County of Middlesex upon the last Tuesday in July next ensuing and the hon^{ble} the Judges of the said Court are hereby fully authorized to try the same accordingly *Provided* that the said Joseph Buckminster Benjamin Bridges and Jonas Eaton in behalf of the said Town of Framingham at the next Sessions of the Peace holden for the said County of Middlesex Enter into Recognizance which the Justices of the said Court are hereby Directed and Impowred to take, Giving Bond for the Prosecuting their appeal and file their Reasons of Appeal in the Clerks Office of the Court appealed to seven dayes before the Sitting thereof any Law Usage or Custom to the Contrary notwithstanding. [*Passed February 13, 1717-18.*]

Post, No. 43.
No engrossment.
From the bill in Suffolk Court Files, 12317.
Journals of the House of Representatives, 1717-18, Feb. 7, 8, 11-13. Legislative Records of the Council, x., 213, 217, 219.
Middlesex Court of Sessions: Files, Dec., 1717; Records, vol. 1, pp. 342, 344.
Suffolk Court Files, 12257.
Records of the Superior Court of Judicature, 1715-1721, fol. 299.

PRIVATE ACTS,

PASSED 1718-19.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 1718.

[No. 38.]

AN ACT FOR THE REVIVING A BILL FILED BY RICHARD AND HEPHSIBAH COOMES IN HIS MAJESTY'S SUPERIOUR COURT OF JUDICATURE &^{EA} FOR THEIR RIGHT OR EQUITY OF REDEMPTION OF A MORTGAGE MADE BY JOSEPH NEWELL THEIR FATHER, OF HIS FARM AND LAND IN ROXBURY IN THE COUNTY OF SUFFOLK TO FLORENCE MACCARTY LATE OF BOSTON VICTUALLER DECEASED./—

WHEREAS in and by an Order of this Great and General Court or Assembly at their Session in November 1715 It was Voted In answer to the Petition of the said Richard Coomes and Hephshibah his Wife then preferred That the Petitioners ought to have the Equity of Redemption, inasmuch as the mortgage made to Florence Maccarty by Joseph Newell the Father of the Petitioners was not Recorded until April the 7th 1714 by reason whereof they were defeated of the Benefit of an act for hearing and determining of cases in Equity made and Pass'd in the Tenth year of the Reign of King William the third e^m and that they be Impowered to file a Bill for their Right or Equity of Redemption in the next Court or Courts of Law proper to hear the Same,

And Whereas the hon^{ble} Judges of the Superiour Court of Judicature before whom the Case properly lay did not proceed to Relieve them because the aforerecited Order of this Court had not the form of a Law.

Be it therefore Enacted by his Excellency the Governour Council and Representatives in General Court assembled and by the authority of the Same

That the aforerecited Bill now filed with the Superiour Court of Judicature e^m by the said Richard and Hephshibah Coomes for their Right or Equity of Redemption be and hereby is Revived and Directed to remain in force And that the Hon^{ble} Judges of the s^d Superiour Court at their next Sessions within and for the County of Suffolk proceed to Judgement and award Execution thereon accordingly Any Law Usage or Custom to the contrary thereof Notwithstanding. [*Passed June 19.*]

From the engrossment.
Province Laws, li., 123, note.
Journals of the House of Representatives, 1715, May 30; June 7, 14, 15, 17, 18; July 23; 1716, Aug. 3; 1718, June 4, 10, 11, 14, 19. Legislative Records of the Council, 2, 30, 242, 246, 254, 256, 259. Suffolk Court Files, 10886, 12994. Records of the Superior Court of Judicature, 1715-1721, fol. 57.

[No. 39.]

AN ACT TO ENABLE THOMAS HARVY OF TAUNTON IN THE COUNTY OF BRISTOL YEOMAN TO BRING FORWARD HIS APPEAL AT THE SUPERIOUR COURT NEXT TO BE HOLDEN AT BRISTOL WITHIN AND FOR THE COUNTY OF BRISTOL FROM A JUDGEMENT OF THE INFERIOUR COURT OF COMMON PLEAS HELD AT BRISTOL THE SECOND TUESDAY OF APRIL 1717, IN A PLEA OF TRESPASS ORIGINALLY COMMENCED BY JOHN GODFREY AND JOANNA HIS WIFE AGAINST JAMES PAUL:

From the engrossment.
Province Laws, ii., 123, note.
Journals of the House of Representatives, 1717–18, Feb. 14; 1718, June 10, 14, 21, 23, 25.
Legislative Records of the Council, x., 247, 251, 262, 268.
Records of the Superior Court of Judicature, 1715–1721, fol. 244, 311.

WHEREAS John Godfrey and Joanna his Wife at a Court in January 1716 at Bristol had an Action of Trespass against James Paul who vouched in Nicholas Moorey, and the said Moorey summoned or vouched in the said Thomas Harvey, who appeared and helped to defend the said Action at the next Inferiour Court in said County, when and where Judgement went against the said Moorey for the Sum of eleven Pounds fifteen Shillings & seven Pence Damage & Costs; from which Judgement the said Moorey appealed and filed his Reasons according to Law; But thrò the Ommission of the said Nicholas Moorey instead of the said Harvey's being Enter'd the Defendant the before mentioned Nicholas Moorey was called the Defendant who only had vouched in the said Harvey; By Means of which Mistake the said Harvey's Appeal was dismiss.

Be it therefore Enacted by his Excellency the Governour Council and Representatives in General Court assembled and by the Authority of the same

That the said Thomas Harvey be and hereby is Authorized & Impower'd to bring forward his said Appeal upon the former Reasons of Appeal at the Superiour Court of Judicature next to be holden at Bristol for & within the County of Bristol, any Mistake in the Recognizance notwithstanding, and that the Judges of the said Court are hereby Impowered and Directed to proceed to Tryal of the said Cause; Any Law, Usage or Custom to the Contrary thereof in any wise notwithstanding.

[*Passed June 25.*]

[No. 40.]

AN ACT TO ENABLE SAMUEL FISH OF FALMOUTH IN THE COUNTY OF BARNSTABLE TO FILE REASONS OF APPEAL ANEW AND PROSECUTE HIS APPEAL TO THE SUPERIOUR COURT OF JUDICATURE COURT OF ASSIZE AND GENERAL GOAL DELIVERY NEXT TO BE HOLDEN AT PLYMOUTH FOR THE COUNTIES OF PLYMOUTH BARNSTABLE ERA IN A CAUSE BETWEEN THE SAID SAMUEL FISH APPELLANT AND OUR SOVEREIGN LORD THE KING APPELLEE

WHEREAS at the Court of General Sessions of the Peace held at Barnstable aforesaid on the first Tuesday of July 1717 the said Samuel Fish was presented by the Grand Jury for the Body of the said County for Stealing or theivishly taking away from one John Dillingham Jun^r of Sandwich two Barrels of Turpentine or near two Barrels when they stood in the Woods on the Indians Land between Barnstable Town and Falmouth sometime the last Fall or since And that upon Tryal at the said Court the said Fish was found guilty and Judgement Pass'd against him accordingly from which Judgement he did appeal to the Court of Assize and General Goal Delivery which was held at Plymouth for the said Counties of Plymouth Barnstable e^m on the last Tuesday of March last, and became bound to prosecute His s^d appeal as the Law directs, having sufficient Evidence as he saith to prove himself intirely innocent of the Fact wherewith he has been charged, And that he did as the Law directs in such cases in due time file his Reasons of Appeal in the proper office before the sitting of the s^d Court in order to have had that matter fairly heard before the Judges of the said Court of Assize e^m so that the said Judgement or Sentence might be reversed ; But by a mistake which was made in the Title of the Cause in the said Reasons of Appeal wherein the said Samuel Fish was named as appellant, and one John Dillingham the Prosecutor was named as Appellee, instead of His Majesty King George, The Judges of the s^d Court did not think fit to suffer the said Fish to have the Benefit of his appeal, but confirmed the former Sentance of the said Inferiour Court or Court of General Sessions of the Peace as aforesaid.

Be it therefore Enacted by the Governour Council and Representatives in General Court assembled and by the Authority of the same

That the said Samuel Fish have leave and be enabled to file his Reasons of Appeal anew in the proper office, and prosecute his appeal to the Superiour Court of Judicature Court of Assize and General Goal Delivery next to be holden at Plymouth for the Counties of Plymouth Barnstable e^m in the said Cause wherein the said Samuel Fish must be appellant, and our said Sovereign Lord the King Appellee And the Justices of the said Court are hereby Directed and Authorized to hear and determine the said appeal Any Law Usage or Custom to the contrary notwithstanding [Passed June 28.

From the engrossment. Province Laws, ii., 123, note. Journals of the House of Representatives, 1718, June 14, 19, 24, 27. Legislative Records of the Council, x., 228, 251, 254, 257, 275. Suffolk Court Files, 8008, 11682. Records of the Superior Court of Judicature, 1715-1721, fol. 4, 218.

[No. 41.]

AN ACT TO ENABLE RICHARD CARR & JAMES CARR OF NEWBURY TO BRING FORWARD THEIR APPEAL AT THE SUPERIOUR COURT NEXT TO BE HOLDEN AT SALEM WITHIN AND FOR THE COUNTY OF ESSEX FROM A JUDGEMENT OF THE INFERIOUR COURT OF COMMON PLEAS HELD AT NEWBURY FOR THE COUNTY OF ESSEX ON THE LAST TUESDAY IN SEPTEMBER 1717. IN AN ACTION OF TRESPASS UPON THE CASE COMMENCED AGAINST EDWARD SERGEANT OF NEWBURY.

From the engrossment.
Province Laws, II., 123, note.
Resolves, 1698–4, chap. 12;
1705–6, chap. 76;
1706–7, chap. 98;
1707, chap. 78.
Legislative Records of the Council, x., 265, 266, 271, 275.
Journals of the House of Representatives, 1716, June 6, 11, 13; Nov. 28, 30;
1718, June 18, 21, 26, 27; Nov. 6. Salisbury Town Records, 1700, June 13;
1719, Sept. 8, 25;
1720, March 28.
Suffolk Court Files, 2606, 8616, 13031, 13575, 15500.

WHEREAS the said Richard & James Carr had an Action of Trespass at an Inferiour Court at Newbury in September 1717 against Edward Sergeant, when and where Judgement was given in Bar against the said Richard Carr and James Carr, from which Judgement the said Richard Carr appealed and filed the Reasons of Appeal according to Law; But by Mistake entered into the Bonds of Appeal in his own Name, and not jointly with the said James Carr, for which Reason the said Carrs Appeal was dismist.

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court Assembled and by the Authority of the same

that the said Richard and James Carr be and hereby are Authorized and Impowered to bring forward their Appeal at the Superiour Court of Judicature next to be holden at Salem for & within the County of Essex any Mistake in the Bonds or Reasons of Appeal notwithstanding; The former Judgements for Costs not to be reversed; And the Judges of the said Court are hereby Impowered & Directed to proceed to Tryal of the said Cause, Any Law, Usage or Custom to the Contrary notwithstanding. [*Passed June 28.*]

Records of the Superior Court of Judicature, 1715–1721, fol. 21, 212, 263, 275, 302; 1721–1725, fol. 10. Essex Inf. Court of Common Pleas, Sept., 1698; June, 1700; Sept., 1706; Sept., 1717; Sept., 1719: Files; Records. Essex Court of Sessions: Files, April and June, 1711; Records, 1696–1718, pp. 252, 303, 305.

[No. 42.]

AN ACT TO ENABLE MARY EVANS WIFE OF JONATHAN EVANS LATE OF BOSTON NOW OF FYALL MERCHANT TO MORTGAGE A PART OF HER ESTATE IN HOUSING & LAND WHICH APPERTAIN AND BELONG UNTO HER IN RIGHT OF HER FATHER ROBT BRONSDON LATE OF SAID BOSTON MERCHANT DECEASED.

WHEREAS the said Jonathan Evans hath been at Fyall more than Six years where he hath lately been so unhappy as to be Seduced to the Romish Religion and lives in an Estrangement from his said Wife and Family and utterly neglects to send any thing to their Reliefe and Maintenance So that She has no Reason to expect any Assistance from him for herself and Children whom he is obliged by Law to Support.

Be it therefore Enacted by his Excellency the Governour, the Council, and Representatives in General Court assembled and by the Authority of the same

That the said Mary Evans have Liberty to take up a Sum not exceeding One hundred and Fifty Pounds for the Support of her Self and Children, upon the Real Estate belonging to her in right of her Father Robert Bronsdon aforesaid and be and hereby is authorised and Impowered to Execute a good and Sufficent Deed or Deeds of Mortgage for the Same, her Coverture and any Law Usage or Custom to the contrary Notwithstanding. [*Passed July 3.*]

From the engrossment.
Province Laws, II., 122, note.
Journals of the House of Representatives, 1718, June 16, 27; July 1, 3.
Suffolk Probate Records, lib. 15, pp. 52, 56.
Suffolk Registry of Deeds, lib. 23, fol. 182; lib. 33, fol. 59; lib. 38, fol. 228; lib. 42, fol. 168; lib. 43, fol. 54.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF OCTOBER, A.D. 1718.

[No. 43.]

AN ACT TO ENABLE JOSEPH BUCKMINSTER BENJAMIN BRIDGES AND JONAS EATON IN BEHALF OF THE TOWN OF FRAMINGHAM TO BRING FORWARD AN APPEAL WHICH FAILED THROUGH A DEFECT IN REASONS OF APPEAL FILED BY THE SAID JOSEPH BUCKMINSTER BENJAMIN BRIDGES & JONAS EATON IN BEHALF OF THE SAID TOWN.

Ante, No. 37.
From the engrossment.
Province Laws,
ii., 123, note.
*Journals of the
House of Rep-
resentatives*,
1718, Nov. 5, 13,
14. *Legislative
Records of the
Council*, x., 298.
*Suffolk Court
Files*, 12810.

WHEREAS at the Court of Assize and General Goal Delivery holden at Cambridge for the County of Middlesex the last Tuesday in July last past the said Joseph Buckminster and the other Persons before named were Appellants on Behalf of the said Town of Framingham in a Case between them and the Select Men of the Town of Weston, But in their Reasons mistaking & inserting the Town of Charles-Town for Cambridge, where the said Court of Assize was to be holden; For that Fault the Reasons were quashed, and the Cause could not then proceed; As more fully appears by the Petition of the said Joseph Buckminster &c to this Court praying Redress herein

Be it therefore Enacted by his Excellency the Governour Council and Representatives in General Court assembled and by the Authority of the same,

That the said Joseph Buckminster Benjamin Bridges and Jonas Eaton in Behalf of the said Town of Framingham be & hereby are empowered to bring forward the said Cause by Way of an Appeal to be heard & tryed at the next Court of Assize and General Goal Delivery to be holden at Charles-Town for the County of Middlesex on the last Tuesday of January next ensuing; And the Hon^{ble} the Judges of the said Court are hereby fully Authorized to try the same accordingly; *Provided* that the said Joseph Buckminster, Benjamin Bridges and Jonas Eaton in Behalf of said Town of Framingham file their Reasons of Appeal in the Office of the Clerk of the Court appealed to seven Days before the Sitting thereof & notify the adverse Party of the same;

Provided also the Judgement already given for Costs be not reversed; Any Law, Usage, or Custom to the Contrary notwithstanding. [*Passed November 14.*]

PRIVATE ACTS,

PASSED 1719-20.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SEVENTH DAY OF MAY, A.D. 1719.

[No. 44.]

AN ACT TO ENABLE DANIEL BARTLETT OF MENDON TO BRING FORWARD AN ACTION OF THE CASE BETWEEN NATHANIEL AND TIMOTHY HALLOWAY OF TAUNTON & THE SAID BARTLETT AT THE SUPERIOUR COURT NEXT TO BE HOLDEN AT BRISTOL WITHIN & FOR THE COUNTY OF BRISTOL.

WHEREAS Nathaniel Halloway & Timothy Halloway of Taunton in the County of Bristol at an Inferiour Court in the said County in the Year one Thousand seven Hundred & Ten commenced an Action of the Case against the said Daniel Bartlet, that he should render an Accompt to them the said Halloways of the Earning & Produce of the Iron made at an Iron Work standing in Free-Town in said County, at which said Inferiour Court & likewise at the Superiour Court in the said Year 1710 the said Daniel Bartlett obtained Judgement against the said Halloways; But upon the Review the said Bartlett was cast & Judgement given against him to render an Accompt to the Plaintiffs of the Earnings & Produce of the Iron made at the Iron Works sued for in the Writt in three Months Time, Or to pay the Sum of Twenty Pounds & Costs of Suits; And although the said Daniel Bartlett used his utmost Endeavour to render an Accompt according to the said Judgement by his Attorney (he being out of the Province & under Lameness) & the said Halloways were not to be found Yet notwithstanding Execution was issued out & extended for the whole Twenty Pounds & Costs as if no such Accompt had bin tendered;*

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said Daniel Bartlett be & hereby is authorized & impowered to bring forward his said Action of the Case *De Novo* at the Superiour Court of Judicature next to be Holden at Bristol for & within the County of Bristol, the Execution notwithstanding; And the Judges of the said Court are hereby impowered & directed to proceed to Tryal of the said Cause, Any Law Usage or Custom to the Contrary in any wise notwithstanding. [*Passed June 29.*]

* *Sic.*

From the engrossment.
Province Laws, II., 123, note.
Legislative Records of the Council, x., 74, 110, 114, 390, 392, 393. Journals of the House of Representatives, 1716, June 19; Nov. 17, 24, 28; 1719, June 25, 27, 29. Suffolk Court Files, 9822, 9830, 12902, 12907, 14404, 27570. Records of the Superior Court of Judicature, 1715-1721, fol. 310.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FOURTH DAY OF NOVEMBER, A.D. 1719.

[No. 45.]

AN ACT TO ENABLE CHRISTOPHER TAYLOUR OF BOSTON TO BRING FORWARD A NEW TRYAL BY REVIEWING A CAUSE BETWEEN THE EXECUTORS OF JAMES TAYLOUR DECD AND THE SAID CHRISTOPHER TAYLOUR AT THE NEXT INFERIOUR COURT OF COMMON PLEAS TO BE HELD AT BOSTON WITHIN THE COUNTY OF SUFFOLK:

Post, Nos. 52, 55.
From the engrossment.
Province Laws, II., 158, note.
Journals of the House of Representatives, 1719, Nov. 11, 19.
Legislative Records of the Council, x., 400, 406, 411, 416, 418.
Sewall's Diary, III., 287. *Essex Inf. Court of Common Pleas*: Files, May, 1720; Records, Dec., 1719. *Suffolk Court Files*, 11306, 11783, 13446, 13548, 13668, 13890, 14609, 14678, 14982, 15515, 15832, 16281, 27513, 28300, 28352.

WHEREAS in the Year One Thousand seven Hundred and seventeen the Executors to James Taylour of Lyn in the County of Essex Gentleman Dec^d did obtain a Judgement by Default for the Sum of seventy five Pounds & Costs against Christopher Taylour of Boston in the County of Suffolk Mariner, Who was then out of this Province & taken by the Pirates and so incapable of Making a Defence:

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That notwithstanding the said Judgement by Default is passed, the said Christopher Taylour is hereby Authorized & Impowered to bring on a new Tryal by Reviewing said Cause at the next Inferiour Court of Common Pleas to be held at Boston for & within the said County of Suffolk, And that either Party have the further Liberty of Appealing to & Reviewing in the Superiour Court as in other Cases according to the Course of the Law, And the Judges of the said Courts are hereby Impowered & Directed to proceed to a new Tryal of the aforesaid Cause accordingly, Any Law, Usage, or Custom to the Contrary in any wise notwithstanding. [*Passed November 19.*]

[No. 46.]

AN ACT TO ENABLE JOHN BARREL OF BOSTON TO MAKE SALE OF TWO SEVERAL TENEMENTS [SCITUATE IN COR]NHILL STREET BOSTON TO DISCHARGE A MORTGAGE BY HIM & HIS LATE WIFE MADE THEREON.

WHEREAS Mary Ardell Mother in Law to the said John Barrel did in & by a certain Instrument in Writing Give & Grant unto him & Abiah his late Wife late Deceased (which Abiah was only Daughter of the said Mary Ardell) three several Tenements with the Land under & to the same belonging, scituate in Cornhill Boston to be holden by the said John Barrel & Abiah his late Wife & to the Heirs & Assigns of the said Abiah for Ever, Which said Tenements were laid wast & consumed in the late great Fire in Boston, And the said John Barrel & his said Wife in her Life Time did see Cause for the Benefit of them selves & Children to build with Brick upon the said Land & did expend of their own Money the Sum of Four Hundred Pounds & took up at Interest the Sum of Five Hundred Pounds more for which Sum they mortgaged two of the said Tenements, which the Mortgagee has now taken by Execution for the Sum of Six Hundred & Eighty Pounds, when the said Estate is worth one Thousand Pounds, And the said John Barrel being rendered unable to redeem the said premisses :

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said John Barrel be & hereby is Impowered to make Sale of the Estate mortgaged, And that he give Security to the Judge of Probate for the County of Suffolk for the Overplus, That the Principal at his Death may come to & be divided among the Heirs of Abiah his late Wife, Any Law, Usage or Custom to the Contrary thereof in any wise notwithstanding [*Passed December 8.*]

From the engrossment. Province Laws, li., 188, note. Journals of the House of Representatives, 1719, Nov. 13, 28; Dec. 2, 3, 7. Legislative Records of the Council, x., 441, 443, 445. Suffolk Probate Records, lib. 31, p. 345. Suffolk Registry of Deeds, lib. 20, fol. 403; lib. 34, fol. 206.

PRIVATE ACTS,

PASSED 1720-21.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTEENTH DAY OF JULY, A.D. 1720.

[No. 47.]

AN ACT ENABLING ELIZABETH CARDER WIDDOW TO COMENCE AN ACTION AT COMMON LAW ON AN AUTHENTICK COPY OF A CERTAIN BOND ENTERED INTO BY ANTHONY HAYWOOD OF BOSTON MERCHANT DECEASED ON THE SEVENTH DAY OF AUGUST, ONE THOUSAND SIX HUNDRED & EIGHTY EIGHT IN THE PENAL SUM OF TWO HUNDRED AND FOURTY POUNDS CONDITION FOR THE PAYMENT OF ONE HUNDRED AND TWENTY POUNDS WITH INTEREST UNTO ELIZABETH LEMON SINCE DECEASED.

WHEREAS Elizabeth Carder widdow formerly Elizabeth Lemmon Daughter of Elizabeth Lemon who intermarried with Thomas Willis of Boston Gold-Smith both deceased by her Petition to this Court hath Shewed forth that Anthony Haywood afores^d on the Seventh Day of August Anno One Thousand Six Hundred and Eighty Eight by a certain Obligation became bound unto the said Elizabeth Lemon since dec^d in the penal Sum of Two Hundred and Fourty Pounds, Conditioned for the payment of One Hundred and Twenty Pounds with Interest which Sum of money was placed in his hands as Feoffee in trust for the said Eliz^a Lemon to be kept by him until her Daughter the said Petitioner should arrive at the Age of Twenty One Years or until the time of her marriage which of two should first Come.

And whereas the said Anthony Haywood soon after his Executing the said recited Obligation made his last Will and Testament thereby Appointing Charles Ledget & Francis Foxcroft Esq^{rs} Executors and in a short Time After died

And whereas said Thomas Willis and Elizabeth his said Wife at A Certain Court holden at Boston the Twenty Sixth day of January One Thousand Six Hundred Ninety & One-Two Comenced an Action of Debt against the said Executors for the penalty of the said Bond but Judgement was Against the plant^o (Eliz^a Carder the said petitioner then Elizabeth Lemon not being of Age)

And Whereas the said Thom^s Willis and Elizabeth his Wife in the Year One Thousand Six Hundred & Ninety four in their Passage to Jamaica were taken by a French Privateer & the said Original Bond with divers other papers were then destroy'd and lost

& whereas Francis Foxcroft Esq^r one of the Executors of the s^d Anthony Haywood has signified that he questions not but the said Bond is still due.

From the engrossment.
Province Laws,
ii., 195, note.
Journals of the
House of Representatives, 1720,
July 18, 23;
Nov. 25. Legislative Records
of the Council,
xi., 29-31, 34.
Suffolk Court
Files, 14531,
15602.

Be it therefore Enacted by his Excellency the Govern^r. Council, & Representatives in General Court Assembled & by the Authority of the same

that the said Elizabeth Carder Widdow as Representative of the said Eliz^a. Willis be & hereby is impowered to bring forward her Suit at the Common Law upon a Copy of the said Bond Authenticated from the said Court in which the s^d. Bond was first put in Suit & that the s^d. Copy shall & hereby is to be taken & received to be of as much force vigour & virtue in the Law to all intents & purposes as the Original thereof any Law Usage or Custom to the contrary in any wise Notwithstanding. [*Passed July 23.*]

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SECOND DAY OF NOVEMBER, A.D. 1720.

[No. 48.]

AN ACT TO ENABLE RICHARD IRESON OF MARBLEHEAD IN THE COUNTY OF ESSEX CORDWAINER TO FILE REASONS OF APPEAL IN THE CLERKS OFFICE OF THE INFERIOUR COURT WITHIN THE COUNTY OF ESSEX IN A CASE LATELY DEPENDING BETWEEN HIM & EDWARD WILKINSON OF BOSTON IN THE COUNTY OF SUFFOLK COASTER.

WHEREAS at an Inferiour Court of Common Pleas begun & held at Salem for the County of Essex the last Tuesday of June last past the said Richard Ireson commenced & prosecuted an Action of the Case against the said Edward Wilkinson, Upon which Action the said Edward Wilkinson recovered Judgement for Cost of Court, from which Judgem^t the said Richard Ireson appealed to the Superiour Court of Judicature then appointed by Law to be holden at Salem aforesaid on the second Tuesday of November Currant & Recognized accordingly;

And whereas soon afterwards the said Richard Ireson went out of the Province & the General Assembly altered the said Superiour Court, & Enacted that the same should be held at Salem aforesaid on the last Tuesday of October last Past, Of which he was ignorant being out of the Province; By Reason whereof the said Ireson not returning soon enough was foreclosed & prevented in the Law from Giving in Reasons of Appeal in due Time, And he having by his Petition prayed for Relief in the Premises;—

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said Richard Ireson shall be & hereby is impowered to file his Reasons of Appeal in the said Cause in the Clerks Office of the Inferiour Court of Common Pleas within the County of Essex fourteen Days before the next Superiour Court of Judicature to be holden at Ipswich for the said County of Essex on the third Tuesday of May next, And the Justices of the said Superiour Court are hereby Directed to proceed to the Tryal of the said Cause according to the Directions of the Law, as if the Reasons of Appeal had been filed in due Time; *Provided* that the said Ireson serve the Adverse Party with a Copy of this Act at least fourteen Days before the Sitting of the said Superiour Court; Any Law, Usage or Custom to the Contrary notwithstanding. [Passed November 19.

From the engrossment.
Province Laws, ii., 195, note.
Legislative Records of the Council, xi., 45, 46, 52, 61.
Journals of the House of Representatives, 1720, Nov. 8, 16, 18, 19.
Suffolk Court Files, 14145, 14166, 14167, 15570.
Records of the Superior Court of Judicature, 1721-1725, fol. 10.
Essex Inf. Court of Common Pleas, June, 1720: Files; Records.

[No. 49.]

AN ACT TO ENABLE SIMON STEPHEN OF EASTHAM IN THE COUNTY OF BARNSTABLE INDIAN LABOURER TO PROSECUTE AN APPEAL IN A CAUSE LATELY DEPENDING BETWEEN HIM & HIS BROTHER STEPHEN MORTAQUITT *ALIAS* STEPHEN STEPHEN & ONE PETER DOGAMUS AS APPELLANTS AGAINST THOMAS NICKERSON JUN^r OF CHATHAM IN THE COUNTY AFORESAID LABOURER APPELLEE.

From the engrossment.
Province Laws, ii., 196, note.
Journals of the House of Representatives, 1720, Nov. 11, 12, 15–17, 21. Legislative Records of the Council, xi., 64, 69, 61, 64.
Suffolk Court Files, 18717, 16081, 16919.
Records of the Superior Court of Judicature, 1721–1725, fol. 96.

WHEREAS the said Simon Stephen by his Petition hath shewed forth that at an Inferiour Court of Common Pleas in the County of Barnstable, He in Behalf of him self, the said Peter Dogamus and as Attorney to his said Brother brought an Action of Trespass against the said Thomas Nickerson, Upon which Action the said Nickerson recovered Judgement for Costs; From which Judgement the Plaintiffs appealed to the Superiour Court begun & held at Plimouth on the last Tuesday of April last past, And accordingly entered their Action, But when their Cause came to a Tryal, the said Nickerson produced a Revocation of the said Stephen Mortaquitt *alias* Stephen Stephens Power of Attorney to the Petitioner, by Reason whereof the said Appeal was dismissed, for the Non-Appearence of one of the Appellants, to the very great Damage & Expence of the Petitioner, And he thereupon Praying Relief; —

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said Simon Stephen be & hereby is Authorized & Impowered to prosecute his Appeal in the said Cause at the next Superiour Court of Judicature to be holden at Plimouth for the Counties of Plimouth, Barnstable & Dukes County on the last Tuesday of April next, upon his own Behalf & for his Brother Peter Dogamus, Notwithstanding the Revocation of the Power of Attorney granted to him by his said Brother Stephen Mortaquitt *alias* Stephen Stephen, The said Simon Stephen notifying the said Thomas Nickerson thereof fourteen Days before the Day of the Sitting of the said Superiour Court; And the Justices of the said Superiour Court are hereby directed & impowered to proceed to a Tryal of the said Cause according to the Directions of the Law; *Provided alwaies nevertheless* if the said Stephen Mortaquitt who disavowed the Action will at the next Superiour Court at Plimouth &c: join with his two Brothers in the Appeal Then the Tryal to go forward in the Name of all of them, But if not, then only in the Name of the said Simon & Peter to recover their Right if any they have; Any Law Usage or Custom to the Contrary notwithstanding. —
[Passed November 22.]

[No. 50.]

AN ACT TO ENABLE JONATHAN PAGE OF GROTON IN THE COUNTY OF MIDDLESEX HUSBAND MAN TO PROSECUTE AN APPEAL BETWEEN HIM & NATHANIEL SPARHAWK OF CAMBRIDGE & SIMON GATES OF MARLBOROUGH IN THE SAID COUNTY OF MIDDLESEX ADMINISTRATORS TO THE ESTATE OF STEPHEN GATES SEN^r DEC^p & TO FILE REASONS OF APPEAL IN THE SAID CAUSE IN THE CLERKS OFFICE OF THE INFERIOUR COURT OF COMMON PLEAS WITHIN THE COUNTY OF MIDDLESEX.

WHEREAS the said Jonathan Page by his Petition hath shewed forth That at an Inferiour Court of Common Pleas held at Charles-town for the said County of Middlesex on the second Tuesday in December 1716, the said Sparhawk & Gates Administrators as aforesaid recovered Judgement against the said Page for One Hundred & twenty Acres of Land in Lancaster & Costs of Suit, From which Judgement the said Page appealed to the next Superiour Court of Judicature then to be holden for the said County, But instead of Directing his Reasons of Appeal to the said Superiour Court for the County of Middlesex, He directed the same to the Superiour Court to be holden at Charlestown for the County of Essex, And perceiving his Mistake never entered his Action but the former Judgement was affirmed ag^t him with additional Costs, By Reason or Means whereof the said Page is without Remedy in the Law, Praying for Relief in the Premises;

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court Assembled & by the Authority of the same

That the said Jonathan Page shall be & hereby is authorized & impowered to prosecute his said Appeal at the next Superiour Court of Judicature to be holden at Charlestown for the County of Middlesex on the last Tuesday of January next, He filing his Reasons of Appeal fourteen Days before the Day of the Sitting of the said Court in the Clerks Office of the Inferiour Court of Common Pleas within the said County & timely notifying the adverse Party thereof, And the Justices of the said Superiour Court are hereby directed to proceed to a Tryal of the said Cause according to the Directions of the Law, The Costs in the said Action hitherto to be wholly born by the said Jonathan Page; Any Law Usage or Custom to the Contrary notwithstanding. [*Passed November 28.*]

From the engrossment.
Province Laws, ii., 195, note.
Journals of the House of Representatives, 1720, Nov. 4, 15, 16, 18, 25, 26.
Legislative Records of the Council, xi., 49, 61, 67, 70.
Middlesex Probate Files, 6261.
Middlesex Registry of Deeds, book 17, p. 316.
Middlesex Court of Common Pleas, Dec., 1716.
Files; Records. Suffolk Court Files, 14787.
Records of the Superior Court of Judicature, 1715-1721, fol. 341.

first Tuesday of January next, So that he may proceed to the Tryal thereof & that he may recover Judgem^t for the said two severall Sums, the one of Thirteen Pounds six Shillings & eight Pence, & the other of twenty nine Pounds three Shillings & four Pence (If he make good Proof thereof) for the Rent due as in the Writts he has severally declared; And the Judges of the said Court are hereby impowered to make up Judgements for such Sums as the said William Taylour Administrator as aforesaid shall upon fair Tryals severally recover on said Writts brought as aforesaid; Any Law, Usage or Custom to the Contrary thereof in any wise notwithstanding; The Adverse Party to be notified at least fourteen Days before the Court, And the Party aggrieved to appeal or review as in other Cases [*Passed December 9.*]

[No. 53.]

AN ACT TO ENABLE SAMUEL BANISTER OF BOSTON MERCH^t AS HE IS ADMINIST^r OF ALL & SINGULAR THE GOODS & CHATTELS, RIGHTS & CREDITS OF THOMAS BANISTER LATE OF BOSTON AFORES^d MERCH^t DEC^d INTTESTATE TO PROSECUTE AN APPEAL BETWEEN HIM IN HIS SAID CAPACITY & COLL EDMUND GOFFE OF CAMBRIDGE IN THE COUNTY OF MIDDLESEX ESQ^s & TO FILE REASONS OF APPEAL IN THE CAUSE IN THE CLERKS OFFICE OF THE INFERIOUR COURT OF COMMON PLEAS WITHIN THE COUNTY OF MIDDLESEX

WHEREAS Samuel Banister of Boston Merch^t Administ^r to the Estate of Thomas Banister late of Boston aforesaid Merch^t Dec^d Inttestate hath by his Petition shewed forth That his Action of Trespass in his said Capacity being brought by him by Way of Appeal before the Superiour Court of Judicature holden at Cambridge for the County of Middlesex on the last Tuesday of July last past against Coll Edmund Goffe of Cambridge Esq^s Judgem^t was that his Reasons of Appeal should be quashed, the Parties to the same not being made certain, And that the said Edmund Goffe should recover against him Adminis-
trator as aforesaid Costs of Suit; Praying he may have Liberty to file his Reasons of Appeal anew, & enter & prosecute his Appeal at the next Superiour Court of Judicature to be holden at Charles-Town for the County of Middlesex:

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

that the said Samuel Banister shall be & hereby is impowered & authorized to prosecute his said Appeal at the next Superiour Court of Judicature to be holden at Charles-town for the County of Middlesex on the last Tuesday of January next, He filing his Reasons of Appeal fourteen Days before the Day of Sitting of the said Court in the Clerks Office of the Inferiour Court of Common Pleas within the said County, & timely Notifying the Adverse Party thereof; And the Justices of the said Superiour Court are hereby directed to proceed to a Tryal of the said Cause according to the Directions of the Law, The Costs of the said Action hitherto to be wholly born by the said Samuel Banister; Any Law Usage or Custom to the Contrary notwithstanding.
[Passed December 16.]

From the engrossment.
Province Laws, ii., 195, note.
Legislative Records of the Council, xi., 81, 92, 94, 100, 104.
Journals of the House of Representatives, 1720, Dec. 12, 15, 16.
Executive Records of the Council, vii., 214.
Middlesex Court of Sessions: Files, March, 1717-18; March and April, 1720-21; Records, 1692-1723, pp. 345, 349, 390.
Middlesex Inf. Court of Common Pleas: Files, Dec., 1720; Records, vol. i., pp. 315, 316, 333, 334.
Suffolk Court Files, 10792, 12812, 12813, 13203, 14338, 17987.
Records of the Superior Court of Judicature, 1715-1721, fol. 15, 29, 236, 238, 270, 307.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTEENTH DAY OF MARCH, A.D. 1720-21.

[No. 54.]

AN ACT TO ENABLE JAMES DIKE OF GLOCESTER IN THE COUNTY OF ESSEX TO PROSECUTE AN APPEAL FROM A JUDGEMENT GIVEN AGAINST HIM BY EPES SERGEANT ESQ^r ONE OF HIS MAJESTIES JUSTICES OF THE PEACE FOR THE SAID COUNTY IN A CAUSE LATELY DEPENDING BEFORE THE S^d JUSTICE BETWEEN THE SAID JAMES DIKE & JAMES SAWYER OF GLOCESTER AFORESAID.

From the engrossment.
Province Laws, ii., 196, note.
Legislative Records of the Council, xi., 123, 125, 128.
Journals of the House of Representatives, 1720-21, March 16, 22, 24; 1721, March 25.
Essex Inf. Court of Common Pleas: Files, June, 1722.

WHEREAS the said James Dike by his Petition hath shewed forth, That on the twenty seventh of February last past the said James Sawyer obtained a Judgement against him before the said Justice for Twenty two Shillings Debt or Damage & Costs of Court, From which Judgement the Petitioner craved an Appeal, but being ignorant of the Law, failed to give Security for Prosecuting the same within the Time the Law prescribes.

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That it shall & may be lawful to & for the said James Dike to prosecute his Appeal in the s^d Case at the next Inferiour Court of Common Pleas to be holden at Salem for the County of Essex on the last Tuesday of June next, He Entering into Recognizance before the said Justice to prosecute his said Appeal with Effect, And filing his Reasons of Appeal seven Days inclusively before the Sitting of the said Court, According to the Directions of the Law in Appeals from a Justice of the Peace (Which he is hereby authorized to do) And likewise Notifying the adverse Party of this Act at least fourteen Daies before the Sitting of the Court And the Justices of the said Inferiour Court are hereby Directed & Impowered to proceed to a Tryal of the said Cause, according to the Directions of the Law, and to Give Judgement therein & award Execution thereupon; Any Law Usage or Custom to the Contrary notwithstanding. [*Passed Murch 25, 1721.*]

[No. 55.]

AN ACT TO REVIVE AN ACT ENTITLED "AN ACT TO ENABLE WILLIAM TAYLOUR OF LYNN IN THE COUNTY OF ESSEX GENTLEMAN AS HE IS ADMINISTRATOR TO THE ESTATE OF REBECCA TAYLOUR LATE OF LYNN AFORESAID WIDOW DEC^d TO ENTER TWO SEVERAL ACTIONS AT THE INFERIOUR COURT OF COMMON PLEAS HELD FOR THE COUNTY OF SUFFOLK ON THE FIRST TUESDAY IN JANUARY 1720: AGAINST CHRISTOPHER TAYLOUR OF BOSTON IN THE SAID COUNTY OF SUFFOLK MARINER SO THAT HE MIGHT PROCEED TO TRYAL THEREOF IN ORDER TO RECOVER JUDGEMENT FOR TWO SEVERAL SUMS, THE ONE OF THIRTEEN POUNDS SIX SHILLINGS & EIGHT PENCE, AND THE OTHER OF TWENTY NINE POUNDS, THREE SHILLINGS & FOUR PENCE AGAINST THE SAID CHRISTOPHER TAYLOUR FOR SO MUCH DUE TO THE SAID REBECCA TAYLOUR IN HER LIFE TIME FOR RENT;" WHICH S^d ACT WAS PASSED AT THE SESSION HELD THE SECOND OF NOVEMBER 1720.

WHEREAS by the s^d above recited Act, the said William Taylour in his Capacity of Administrator to his said Mother M^{rs} Rebecca Taylour Dec^d was enjoyned to give the said Christopher Taylour Notice fourteen Days before the said Inferiour Court held at Boston for the said County of Suffolk the first Tuesday in January last, before he could be Enabled to Enter the two several Actions above-mentioned against the said Christopher Taylour, And the said Petitioner William Taylour Administrator &c as afore-said, not being able to obtain the said Act soon enough, so as to be able to meet with the said Christopher Taylour, to serve him with a Copy of the said Act fourteen Days before the said Court in January last, as afore-said Whereby he lost the Benefit of the said Act. And can not proceed for Want of a longer Time, to Notify the said Christopher Taylour; (as by his Petition preferred to this Great & General Court or Assembly is sett forth)

And whereas by his Prayer in the said Petition It is prayed, that this Court would be pleased to revive the former Act, to Enable him to Enter the said two several Actions at the next Inferiour Court of Common Pleas to be held at Boston for the said County of Suffolk on the first Tuesday of April next against the said Christopher Taylour or at any other ensuing Inferiour Court of Common Pleas to be held for the County of Suffolk, after a timely Notification given him, So that he might be Enabled to proceed against him to Tryal of the said two Actions with Effect;

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court Assembled, & by the Authority of the same,

That it shall & may be lawful to & for the said Petitioner William Taylour as he is Administrator to the Estate of Rebecca Taylour of Lynn aforesaid Widow Dec^d to Enter & Prosecute the said two several Actions in his Capacity of Administrator as aforesaid to the said Rebecca Taylour against the said Christopher Taylour at the next Inferiour Court of Common Pleas to be held at Boston for the County of Suffolk on the first Tuesday of July next, So that he may proceed to the Tryal thereof, And that he may recover Judgement for the said two several Sums, One of Thirteen Pounds six Shillings & eight Pence, And the other of Twenty nine Pounds, three Shillings & four Pence

Ante, No. 52.
From the engrossment.
Province Laws, ii., 195, note.
Legislative Records of the Council, xi., 119, 126, 128, 129, 132. Journals of the House of Representatives, 1720-21, March 24; 1721, March 25, 28, 29.

(If he make good Proof thereof) for the Rent due as in the Writts he has severally declared, And the Judges of the said Court are hereby impowered to make up Judgement for such Sums as the said William Taylour Administrator as aforesaid shall upon fair Tryal severally Recover on the said Writts brought as aforesaid; Any Law Usage or Custom to the Contrary thereof in any wise notwithstanding; The adverse Party to be notified of this Act at least fourteen Days before the said Court, And the Party grieved to appeal or review as in other Cases. [*Passed March 29, 1721.*]

PRIVATE ACTS,

PASSED 1721.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTY-FIRST DAY OF MAY, A.D. 1721, AND
HELD BY ADJOURNMENT, AT CAMBRIDGE,* ON THE
SIXTH DAY OF JUNE FOLLOWING.

[No. 56.]

AN ACT TO ENABLE MARY SERGEANT RELICT WIDOW & ADMINIS-
TRATRIX OF THOMAS SERGEANT LATE OF AMESBURY DEC^d IN-
TESTATE TO SELL & DISPOSE OF EIGHTEEN ACRES OF LAND BEING
PART OF A TRACT OF FORTY ACRES UNDER MORTGAGE TO THE
COMMISSIONERS OF THE HUNDRED THOUSAND POUNDS LOAN FOR
THE USE OF THIS PROVINCE CONFORMABLE TO A CONTRACT MADE
BY THE SAID DEC^d SOME SHORT TIME BEFORE HIS DEATH.

WHEREAS the said Thomas Sergeant in his Life Time mortgaged
about forty Acres of Land to the Commissioners of this Province of
the Hundred Thousand Pounds Loan, Which he bargained in his Life
Time to sell Eighteen Acres thereof for the Sum of One Hundred
Pounds, being the Sum for which the whole Land is mortgaged to this
Province, But before the full Execution of the said Bargain the said
Thomas Sergeant died :

*Be it therefore Enacted by his Excellency the Governour Council &
Representatives in General Court assembled & by the Authority of the
same,*

That the said Mary Sergeant Administratrix as afore-said be &
hereby is Authorized & Impowered by good & sufficient Deed or Deeds
in the Law to sell & dispose of the said Quantity of Eighteen Acres
of the Land bargained for as afore-said. *Provided nevertheless* that
the Land be still subject & stands charged with the Payment of what
Money is or may be due by Mortgage made to the Commissioners of
the Hundred Thousand Pounds Loan ; Any Law, Usage or Custom to
the Contrary thereof in any wise notwithstanding. [*Passed June 16.*]

From the en-
grossment.
Province Laws,
ii., 217, note.
Legislative Rec-
ords of the
Council, xi.,
146, 152, 157.
Journals of the
House of Rep-
resentatives,
1721, June 8, 9,
14-16. Essex
Probate Files,
24699. Essex
Registry of
Deeds, book
34, leaf 147;
book 53, leaf 86.

* Because of the small-pox in Boston.

[No. 57.]

AN ACT TO ENABLE WILLIAM MAN OF BOSTON IN THE COUNTY OF SUFFOLK BRASIER TO BRING FORWARD AN ACTION OR WRITT OF REVIEW OF A PLEA OF THE CASE (BY HIM COMMENCED AGAINST ONE JOHN GUY OF BRENTFORD IN THE COLONY OF CONNECTICUTT TAYLOUR AT AN INFERIOUR COURT OF COMMON PLEAS HELD AT BOSTON ON THE FIRST TUESDAY OF JULY LAST) AT THE INFERIOUR COURT OF COMMON PLEAS TO BE HOLDEN AT BOSTON FOR Y^e COUNTY OF SUFFOLKE EITHER ON THE FIRST TUESDAY OF JULY NEXT OR THE FIRST TUESDAY OF OCTOBER NEXT.

From the engrossment.
Province Laws, li., 217, note.
Legislative Records of the Council, xi., 144, 148, 157. Journals of the House of Representatives, 1721, June 8, 14-16. Suffolk Court Files, 14226.

WHEREAS the said William Man hath by his Petition shewed forth that he brought his Action of the Case against John Guy of Brentford in the Colony of Connecticut Taylour for the Sum of Fifty nine Pounds nineteen Shillings & ten Pence due to him by Accompt, W^{ch} Action was entered to be heard & tryed at the Inferiour Court of Common Pleas held at Boston aforesaid on the first Tuesday of July last; When & where he the said William Man (in the Absence of his Attorney) was hastily thro' Inadvertency surprized into a Rule of Court to Refer the Accompts depending between the said Parties to Auditors, Not in the Least supposing but that he might have the Benefit of a fair Tryal of his Cause by a Jury, If the Auditors should not make a Report in the Petitioners Favour; But they on the Contrary having found Sixteen Pounds fifteen Shillings & five Pence due to the said Guy, the Court proceeded to give Judgem^t accordingly for him the said Guy without Allowing the Petitioner a Tryal of his Case by a Jury; By Reason whereof he is without Remedy in the Law being barred of an other Tryal (as he was informed) because he entered into the Rule of Court as aforesaid; And thereupon Praying Relief, more especially for that Judgem^t was Entered up, That the Defend^t Guy should recover Sixteen Pounds fifteen Shillings & five Pence upon the Plaintiffs Writt, W^{ch} is contrary to the known Rules & Methods of Law, Altho' there might be a Ballance due to the said Guy from the Petitioner:

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said William Man shall be & hereby is Authorized & Impowered to bring forward his Action or Writt of Review of the said Cause at the Inferiour Court of Common Pleas to be holden at Boston for the County of Suffolk, Either the first Tuesday of July next, or on the first Tuesday of October next; And the Justices of the said Court are hereby impowered to proceed to Tryal of the said Cause according to Law, *Provided* the said William Man cause a Copy of his Writt of Review to be left fourteen Days before the said Courts Sitting either at the last Place of the said Guys Abode in Boston aforesaid (he living out of the Province) Or with the Sheriff of the County of Suffolk, Who hath in his Hands the Money recovered by the said Guy by the Judgement aforesaid; And that the Money levied by Execution, which issued out upon the said Judgement upon the said William Man be stayed & kept by the Sheriff until the final Issue & Determination of the said Cause, The Rule of Court entered into by the Parties or the Judgem^t of Court thereupon, Or any Law Usage or Custom to the Contrary notwithstanding [Passed June 16.

[No. 58.]

AN ACT FOR THE RELEIFE OF GYLES DYER GENTLEMⁿ AGAINST A
JUDGMENT OBTAIN'D AGAINST HIM BY JOHN BARNARD MERCH^t

WHEREAS at an Inferiour Court of Common Pleas holden at Boston for the County of Suffolk on the first Tuesday of October 1719 The said John Barnard recovered a Judgment against the said Gyles Dyer for the sum of Two Hundred & Ninety Pounds & Costs And at the same Court the said Gyles Dyer recovered a Judgm^t against the said John Barnard for the sum of Two Hundred & Eighty four pounds twelve shillings & nine pence & Costs, as Appears by the Records of the said Court;

And Whereas the said John Barnard is return'd to England leaveing no visible Estate or Effects, but a Power of Attorney to take out an Executⁿ against the said Dyer on the Judgment aforesaid without any direction to Discount the Judgment recoverd by the said Dyer against the said Barnard; so that the said Dyer is in great danger of suffering by loseing the said sum of Two Hundred Eighty four Pounds twelve shillings & nine pence, which would be contrary to Law and Justice —

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court Assembled & by the Authority of the same

That upon the said Gyles Dyers Paying to the Attorney of the said John Barnard, or lodgeing for his Use in the Clerks office, of the Inferiour Court at Boston, the sum of Five Pounds seven shillings & three pence, which appears to be the just Ballance of the said Judgments, between the said Barnard & Dyer; The Judgment of the said Barnard be & hereby is vacated & made null & void & no Execution to Issue thereupon; Any Law Usage or Custom to the contrary notwithstanding; *Provided Always* that the said Dyer Pay or lodge the said Ballance as aforesaid within one Month from the end of this Present Session of the General Assembly — [*Passed June 29.*]

From the engrossment.
Province Laws, ii., 218, note.
Legislative Records of the Council, x., 430, 431, 438; xi., 33, 106, 177. Journals of the House of Representatives, 1719, Nov. 27; Dec. 2; 1720, July 23; Dec. 17; 1721, June 29. Suffolk Court Files, 13292-13294, 13342, 13514.

PRIVATE ACTS,

PASSED 1721-22.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT CAM-
BRIDGE,* ON THE SECOND DAY OF MARCH, A.D.
1721-22.

[No. 59.]

AN ACT† TO ENABLE DANIEL OLIVER AND WILLIAM WELSTEED,
ESQUIRES, EXECUTORS OF THE LAST WILL AND TESTAMENT OF
GROVE HIRST, ESQUIRE, LATE OF BOSTON, DECEASED, AND GUAR-
DIANS TO HIS CHILDREN, TO SELL SOME PART OF THE SAID
DECEASED'S ESTATE. [*Passed March 22, 1721-22.*]

No engrossment. Province Laws, ii., 234, note. Legislative Records of the Council,
xi., 229, 271, 278, 281. Journals of the House of Representatives, 1721, Sept. 7;
Nov. 7; 1721-22, March 14, 21, 22. Suffolk Registry of Deeds, lib. 36, fol. 71, 72,
88. Sewall's Diary, lili., 302.

* At Harvard College; and the same day adjourned to the sixth of March, at the Swan
Tavern, Cambridge, because of the small-pox, near the College.

† The title of this act is taken from the entry in the legislative records of the council,
xi., 275.

[No. 60.]

AN ACT* TO ENABLE MARGARET WRIGHTINGTON OF NEWPORT IN THE COLONY OF RHODE ISLAND, WIDOW, TO ALIENATE SEVERAL LOTS OF LAND WITHIN THE TOWNSHIP OF LITTLE COMPTON IN THE COUNTY OF BRISTOL. [*Passed March 24, 1721-22.*]

No engrossment. Province Laws, II., 234, note. Legislative Records of the Council, XI., 273, 285, 290. Journals of the House of Representatives, 1720, Nov. 28; 1721-22, March 16, 23. Bristol Inf. Court of Common Pleas, July and Nov., 1721: Records. Bristol Registry of Deeds for Northern District, book 15, pp. 34, 252, 456, 458, 466; book 16, pp. 209, 400; book 18, pp. 219, 221.

* The title of this act is taken from the entry in the legislative records of the council, XI., 284.

[No. 61.]

AN ACT TO ENABLE HUGH HALL JUN^r TO REDEEM THE ESTATE OF HIS LATE GRANDFATHER BENJ^a GIBBS DECD SITUATE IN BOSTON IN HANNOVER STREET.

WHEREAS the sd Hugh Hall by his petition hath set forth That his Grandfather Cpt Benj^a Gibbs heretofore of Boston Merch^t deced did in his lifetime viz^t on the 16th of October 1676, mortgage a certain house & Land in Hannover or Millbridge street in the s^d Town for six hundred pounds unto Maj^r John Richards & soon after proceeded to the West Indies & there dyed Intestate leaving a Wife & two Children, one Son & one Daughter the pet^r mother That Letters of admincon were Granted to Lydia his Widow, who Intermarried with Capt Anthony Checkley & thereby s^d Checkley possessed himself of the whole or the greatest part of the Estate of the s^d Benjamin Gibbs That after the sd Intermarriage the sd Checkley on the fifteenth of May 1682 with his sd wife adm^{rs} as aforsd signed a Minute in the Clerks office in the Margin of the s^d Mortgage & thereby rendred the Estate of the s^d Mortgagee absolute so far as in them lay And the same day the s^d Anthony Checkley took a Conveyance of the s^d Messuage Land & p^rmisses in his own Name from the sd Richards paying part of the Consideration money & Mortgaged the same for the securing the remaining part of the sd Consideration money which amounted to Five hundred pounds. And after the sd Checkley failing to discharge his Mortgage the Exc^r of the sd Richards sued out the s^d Mortgage & Obtained Judgm^t for three hundred forty Eight pounds four shillings & Eight pence or possession of the p^rmisses. And in some time after the s^d Checkley dyed And it further appearing That the sd Benj^a Gibbs's son dyed in the seventeenth year of his age & his Daughter (the Pet^r's Mother) Married under age & went out of the Countrey, disabled to Obtain relief & your Pet^r under age & out of the Province and thereupon praying this Court to Enable him by a private act to redeem the s^d mortgaged p^rmisses.

Be it therefore Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same.

That the s^d Hugh Hall may within the space of twelve months next file & bring forward in the Superior Court of Judicature to be holden for the County of Suffolk his Bill in Equity in order to redeem the p^rmisses he paying the principal sum for wch the same was Mortgaged, Including & allowing such payments as appear to be made out of the Estate of the s^d Benj^a Gibbs the Original Mortgager Including also & allowing what money was paid by the s^d Antho. Checkley or his assigns to the s^d John Richards the Mortgagee, In wch suit Consideration is also to be had & allowance made for Interest money that may be due to the heirs or assigns of the s^d Anthony Checkley for principal mony by him paid out of his particular Estate in part of the s^d Mortgage with reasonable allowance for additional buildings Erected by the s^d Checkley upon the s^d mortgaged p^rmisses; the heirs & assigns of the s^d Antho Checkley and also the heirs & assigns of the sd John Richards allowing & Justly accounting for the rents profits use & Improvements of the s^d p^rmisses for all the time it was under the Care Improvem^t and possession of him or them, or any of them, any Law usage or Custom, to the Contrary notwithstanding — [*Passed March 24, 1721-22.*]

Post, No. 65.

No engrossment.

From a copy of the bill in Suffolk Court Files, 15767.

Province Laws, II., 234, note.

Legislative Records of the Council, XI., 220, 221, 272, 275, 278, 286, 290.

Journals of the House of Representatives, 1721, Aug. 30; 1721-22, March 14, 20, 23.

Suffolk Court Files, 2280, 4139, 5890, 5931, 6259, 16851, 28979.

Records of the Superior Court of Judicature, 1721-1725, fol. 106.

PRIVATE ACTS,

PASSED 1722-23.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MAY, A.D. 1722.

[No. 62.]

AN ACT TO ENABLE EDWARD JACKSON OF NEWTON IN THE COUNTY OF MIDDLESEX FARMER TO FILE REASONS OF APPEAL FROM THE DECREE OR SENTENCE OF THE HON^{BLE} FRANCIS FOXCROFT ESQ^J JUDGE OF PROBATES FOR THE COUNTY OF MIDDLESEX PASSED ON THE FIFTH OF FEBRUARY 1721, RELATING TO THE ADMINISTRATION OF THE ESTATE OF JONATHAN JACKSON (SUPPOSED TO BE DEAD) WHICH WAS GRANTED TO SARAH JACKSON MOTHER & JOSEPH JACKSON BROTHER OF THE SAID JONATHAN JACKSON.

WHEREAS by the Petition of the said Edward Jackson setting forth that on the thirteenth of February last he had given Security to the aforesaid Administrators pursuant to an Appeal granted by the said Judge of Probates from his said Sentence or Decree to prosecute his s^d Appeal according to Law, But his Attorney being out of Town and the Petitioner afraid of the Small Pox, Elapsed the Time of Ten Days after Security given of Filing his Reasons of Appeal to his Excellency & Honours, Whereby he hath lost that Benefit & Advantage, Altho he had a Letter of Attorney about eight Years agoe granted to him by the said Jonathan Jackson his Brother, Whom he hath sufficient Reason to believe is still alive, Praying that he may be Enabled to file his Reasons of Appeal from the said Judges Decree or Sentence of the fifth of February 1721, relating to the said Administration granted as afore-said :

Be it Enacted by his Excellency the Governour Council & Representatives in General Court assembled & by the Authority of the same

That the said Petitioner Edward Jackson be & hereby is Enabled to file his Reasons of Appeal from the Decree or Sentence of the said Hon^{BLE} Francis Foxcroft Esq^J Judge of Probates for the said County of Middlesex pass'd on the fifth of February 1721, Relating to the Administration granted to Sarah Jackson Mother, & Joseph Jackson Brother of the said Jonathan Jackson (As if said Jonathan had been dead) in such Form as the Law in such Cases directs, And that no Strip or Wast be made by the said Edward Jackson on the Lands of the said Jonathan Jackson ; Any Law, Usage or Custom to the Contrary notwithstanding. [*Passed June 19.*]

From the engrossment.
Province Laws, li., 267, note.
Legislative Records of the Council, xi., 304, 317, 320, 321, 330, 332. Journals of the House of Representatives, 1722, June 1, 9, 13, 14, 16, 19. Middlesex Probate Files, 8790.

[No. 63.]

AN ACT TO ENABLE THOMAS SMITH OF IPSWICH IN THE COUNTY OF ESSEX INHOLDER TO REVIEW AN ACTION BROUGHT AGAINST HIM BY WILLIAM BAKER OF BOSTON IN THE COUNTY OF SUFFOLK BAKER ADMINISTRATOR TO THE ESTATE OF NATHANIEL BAKER LATE OF SAID BOSTON BAKER DECEASED —

From the engrossment.
Province Laws, II., 267, note.
Journals of the House of Representatives, 1722, June 1, 7, 8, 14–16, 19.
Legislative Records of the Council, XI., 306, 313, 326, 328, 332.
Suffolk Court Files, 7855, 15278, 17198, 18013.

WHEREAS it appears by the Petition of the said Thomas Smith, that the said William Baker as Administrator aforesaid brought an Action against him for the Nonpayment of Tenn Pounds and six pence Alledged in the Writ to be due to the said Nathaniel Baker in his Lifetime, and that the said William Baker taking Advantage of the said Smith (who could not without great hazard Attend the Inferiour Court at Boston, held the first Tuesday of July *Anno Domini* 1721 by reason he never had the Small Pox which was then in Town) Entred his Action at the said Court, and Obtained Judgment against the said Smith by Default for Eight Pounds Tenn Shillings and six Pence, money damage, and Cost of suit;

Whereas, as he saith, he Ows nothing; and he being without remedy in the Law —

Be it therefore Enacted by His Excellency the Governour Council and Representatives in General Court Assembled and by the Authority of the same

That the said Thomas Smith shall be and hereby is Impowred to Review the said Action or Cause at the Inferiour Court of Common Pleas to be holden at Boston for the County of Suffolk on the first Tuesday in October next; And the Justices of the said Court are hereby Directed and Impowred to proceed to the tryal thereof upon a Writ of Review *provided* that no Advantage be taken of any Defect or Error in the Writ so as to prevent the Cause from going to a Jury; And that the Adverse party be served with a Copy of this Act at least fourteen days before the sitting of said Court; any Law usage or Custom to the Contrary notwithstanding / — [*Passed June 19.*]

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FIFTEENTH DAY OF NOVEMBER, A.D. 1722.

[No. 64.]

AN ACT FOR CONFIRMING THREE ACRES OF UPLAND AND MEADOW,
SCITUATE IN BEVERLY UNTO SARAH PATCH, ONE OF THE DAUGH-
TERS & COHEIRS OF JOHN PATCH LATE OF BEVERLY AFORSAID
DEC? INTESTATE —

WHEREAS the Real Estate of the said John Patch was divided be-
tween the Relict Widow and Children of the said Deceased, and the
Division & Settlement thereof, Confirmed by an Instrument in Writing
duly Executed under the hands and seals of the said Partys, Wherein
the said Divisions are respectively Confirmed unto the Deceased's
Widow & Her Children & their Heirs for Ever, Excepting only that
Part or Division of the said Estate, Which was set forth to the said
Sarah Patch — : Which by Mistake of the Scribe, was Confirmed only
to Her, And the Words Her Heirs for Ever were omitted, Which is
greatly to the Damage of the said Sarah & Contrary to the True Intent
& Meaning of the said Settlement or Division.

From the en-
grossment
Province Laws,
n., 267, note.
Journals of the
House of Rep-
resentatives,
1722, Dec. 6-8,
10, 11, 14. Leg-
islative Records
of the Council,
xi., 435, 439, 443.
Essex Probate
Files, 20710.

*Be it therefore Enacted by His Excellency the Governour, Council &
Representatives in General Court Assembled & by the Authority of the
Same,*

That the said Three Acres of Upland & Meadow Scituate in Beverly
aforesaid & by the aforesaid Settlement set off to the said Sarah Patch;
Be & hereby is Confirmed to the said Sarah Patch & her Heirs for
Ever Any Law Usage or Custom to the Contrary thereof notwithstanding — [*Passed December 15.*]

[No. 65.]

AN ACT IN ADDITION TO AND EXPLANATION OF A PRIVATE-ACT
INTITULED AN ACT TO ENABLE HUGH HALL JUN^r TO REDEEM THE
ESTATE OF HIS LATE GRANDFATHER BENJA GIBBS DEC^d SCITU-
ATE IN BOSTON IN HANOVER STREET PASS'D AT A SESSION OF
Y^r GEN^l ASSEMBLY HELD AT CAMBRIDGE BY ADJOURNM^t MARCH
2^d 1721

Ante, No. 61.
From the en-
grossment.
Province Laws,
ii., 267, note.
Legislative Rec-
ords of the
Council, xi., 468,
472, 481, 495.
Journals of the
House of Rep-
resentatives,
1722–23, Jan. 2,
7, 10, 15. Suf-
folk Court Files,
15767.

WHEREAS in and by the said Act There is not due Provision made
for the Devisees of Maj^r John Richards to recover their Interest, nor
to enable the Judges of the Superiour court to enter up Judgment as
the General Law of the Province for the Redemption of Mortgages, and
in cases of Equity has provided.

*Be it therefore Enacted by the Lieut. Governour, Council and Repre-
sentatives in General Court assembled, and by the authority of the same;*

That the Judges of the Superiour Court of Judicature before whom
the said Hugh Hall has filed and brought forward his Bill in Equity for
Redemption of the said Estate, be and hereby are directed and Impow-
ered, in their hearing and determining the cause to oblige the said
Hugh Hall to be accountable and pay to the said Devisees of Maj^r John
Richards both the Principal and Interest justly due upon the Mortgage
of the afores^d Estate upon the Redemption thereof as by the said
General Law of the Province for Redemption of Mortgages and in
cases of Equity is Provided. The said Devisees accounting with the
said Hugh Hall for so much of the Rents and Profits of the said Mort-
gaged Estate as has really and *bona fide* come to the hands of the said
Major John Richards his Executors Admin^{rs} or the Devisees. And
the Judges of the Superiour Court of Judicature are hereby Directed
and Impowered to enter up Judgment and award Execution accordingly
Any Law Usage or Custom to the contrary Notwithstanding. / — [*Passed
January 16, 1722–23.*]

[No. 66.]

AN ACT ENABLING JOHN USHER ESQ^r TO PROSECUTE AN APPEAL AT THE NEXT SUPERIOR COURT TO BE HELD FOR THE COUNTY OF MIDDLESEX AT THE SUIT OF JOHN FOYE ESQ^r

WHEREAS at the last Inferiour Court of Common Pleas held at Charlestown for the County of Middlesex on the second Tuesday in December last the said M^r John Foye recovered Judgement in Ejection for a Certain Tract of Land (being Part of y^e Farm the said M^r Usher now lives upon) in Charlestown near to Medford Containing 455 Acres more or less for the Possession of the same Farm from the said M^r Usher, unless within Two Months next after y^e Entering up of y^e said Judgement viz^t by y^e fifteenth Day of February, next there be paid by y^e Defend^t Usher to the Plaintiff Foye y^e sum of Two Thousand one hundred thirty Eight pounds, thirteen shillings & three pence principal & Interest due on a Mortgage in Full Discharge thereof, and y^e said Usher having Ordered his Attorney to appeal from y^e said Judgement to the Next Superiour Court of Judicature to be held at Charlestown for y^e said County on the last Tuesday of this Instant Jan^y which He accordingly did But the said Usher having by y^e Neglect of a Messenger (Who shou^d have informed Him of giving security within seven days next after y^e said Judgement) failed to give security as the Law Directs

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in General Court Assembled, & by the Authority of y^e Same,

That John Usher Esq^r be Enabled to prosecute His Appeal at the Next Superiour Court to be held for the County of Middlesex from y^e said Judgement obtained against Him at the suit of y^e said John Foye for y^e Possession of the Above Premises at the last Inferiour Court of Common pleas held at Charlestown for y^e s^d County of Middlesex on y^e second Tuesday in Decemb^r last, He the said Usher Giving security at y^e Clerks Office for the said Inferiour Court of Common pleas in y^e said County before one of y^e Judges of the said Court to prosecute his appeal with Effect & filing his Reasons of Appeal within seven Days before the sitting of the said Superiour Court of Judicature the last Tuesday of this Instant Jan^y, so that the said John Foye be served with a True Copy of this Act, seven Days at least before the sitting of y^e said Superiour Court, Any Law, Usage, or Custom to the Contrary notwithstanding — [*Passed January 18, 1722-23.*]

From the engrossment.
Province Laws, II., 267, note.
Journals of the House of Representatives, 1722-23, Jan. 15, 16, 18. Legislative Records of the Council, xi., 493, 495, 498.
Suffolk Court Files, 16310, 16502, 26978.
Records of the Superior Court of Judicature, 1721-1725, fol. 95.
Middlesex Inf. Court of Common Pleas: Files, Dec., 1722; Records, I., 408, 409.
Middlesex Registry of Deeds, book 15, p. 220; book 18, pp. 163, 164.

[No. 67.]

AN ACT FOR THE ENABLING JONATHAN BLAKE, GEORGE SUMNER WILLIAM SUMNER AND EDWARD SUMNER TO HAVE A NEW TRYAL UPON A PRESENTMENT OR INDICTMENT FOUND AGAINST THEM BY THE GRAND JURY FOR THE COUNTY OF SUFFOLK AT A COURT OF ASSIZE HELD FOR THE SAID COUNTY AT BOSTON, ON THE FIRST TUESDAY OF NOVEMBER 1719./—

From the engrossment.
Province Laws, ii., 267, note.
Journals of the House of Representatives, 1721-22, March 7, 16; 1722-23, Jan. 17. Legislative Records of the Council, xi., 274, 498.
Suffolk Court Files, 28052.
Records of the Superior Court of Judicature, 1721-1725, fol. 120.

WHEREAS the said Jonathan Blake, George Sumner, William Sumner and Edward Sumner have by their Petition to this Court setting forth That they were summoned to the said Court of Assize as Witnesses for and on behalf of Nathaniel Glover Tanner and Joseph Hall Husbandman who were bound over to the said Court, and afterwards Indicted or Presented for a misdemeanor for altering a Warrant from the Hon^{ble} Penn Townsend Esq^r for the calling a meeting of the Proprietors of the common Lands of Dorchester, and to their surprize were likewise themselves presented by the said Grand Jury for the same Crime and found Guilty upon very weak and uncertain Evidence, and were fined forty shillings and Costs, and they bei[ng*] conscious of their own Innocence and desirous to clear their Charect[ers*] to the World. Prayed That they might be enabled by an Act of th[is*] Court, to have a New Tryal upon the said Presentment or Indictment at the next Court of Assize to be held at Boston in and for the said County of Suffolk on the first Tuesday of May next/—

Be it Enacted by the Lieu^t. Govern[our] Council and Representatives in General Court assembled*

That the said Jonathan Blake George Sumner William Sumner and Edward Sumner be enabled to have a new Tryal by a Jury upon the said Presentment or Indictment at the next Court of Assize to be holden at Boston aforesaid on the first Tuesday in May next And the Justices of the said Court of Assize are hereby Impowered and directed to put the said Jonatha[n*] Blake George Sumner William Sumner and Edward Sumner upon their Tryals upon the said Presentment by a [Grand?*] Jury Any Law Usage or Custom to the Contrary in [any*] Wise Notwithstanding. *Provided always* That all the Witness[es*] that were present for and on behalf of the King at the said Trya[l*] be lawfully summoned to appear at the said next May Court to give Evidence for the King on the Tryal, by the Procurement of His Majesty's Attorney General for this province [*Passed January 18, 1722-23.*]

* Engrossment mutilated.

PRIVATE ACTS,

PASSED 1723-24.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF MAY, A. D. 1723.

[No. 68.]

AN ACT TO ENABLE NICHOLAS MOORCOCK TO FILE HIS COMPLAINT AT HIS MAJ^{TYS} SUPERIOUR COURT OF JUDICATURE HELD AT BOSTON WITHIN & FOR THE COUNTY OF SUFFOLK FOR CONFIRMING A JUDGEMENT OF AN INFERIOUR COURT OF COMMON PLEAS HELD AT BOSTON ON THE FIRST TUESDAY OF JULY 1722 OBTAINED AGAINST ELIZABETH DAVIS.—

WHEREAS Nicholas Moorcock of Boston in the County of Suffolk Baker hath by his Petition shewed forth that at an Inferiour Court of Common Pleas held at Boston on the first Tuesday of July 1722 He Obtained Judgement by Default against Elizabeth Davis of Boston aforesaid Widow for the Sum of Two hundred and Nine pounds and Ten shillings and Costs of suit to be paid within Two months after Entering up said Judgement or in Default thereof the possession of the Messuage or Tenement Land and premisses sued for and particularly set forth in said Judgement from which Judgement the said Davis appealed to the next Superiour Court of Judicature to be holden at Boston within and for the said County of Suffolk on the first Tuesday of November then next Ensueing and Recognized to prosecute her said Appeal but failed therein And the said Petitioner (for the Reasons in his said petition) Omitted Filing a Complaint at said Sup^r Court to Confirm the said Judgement so that he is without remedy in the Law, And therefore hath prayed that he may be Enabled to file his Complaint at the Superiour Court of Judicature to be held by adjournment at Boston within and for the County of Suffolk on Tuesday the fourth day of June 1723 in Order to Confirm the said Judgement with Additionall Costs.

Be it therefore Enacted by the Lieutenant Governour Council and Representatives in General Court Assembled and by the Authority of the Same

That the said Nicholas Moorcock shall be and hereby is authorized and Impowred to file his Complaint to the said Sup^r Court of Judicature at any time dureing their Sitting on their present adjournment or any other adjournment of the said Court; And the Justices of the said Court are accordingly Impowred to hear and Determine the Said Complaint, the said Moorcocks Failure in filing his said Complaint Or any Law Usage or Custom to the Contrary notwithstanding. — [*Passed June 5.*]

From the engrossment.
Province Laws, li., 309, note.
Legislative Records of the Council, xi., 519, 523, 525. Journals of the House of Representatives, 1723, May 31; June 4, 5. Suffolk Court Files, 16940. Records of the Superior Court of Judicature, 1721-1725, fol. 117.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SEVENTH DAY OF AUGUST, A.D. 1723.

[No. 69.]

AN ACT TO ENABLE CALEB SPURRIER OF LONDON MERCHANT LATE
RESIDENT IN PORTSMOUTH IN HIS MAJESTIES PROVINCE OF NEW-
HAMPSHIRE, TO REVIEW AN ACTION (ORIGINALLY BROUGHT BY
HIM AGAINST JOHN BUTLER OF GEORGE TOWN IN THE COUNTY OF
YORK INN-HOLDER) AT THE NEXT SUPERIOUR COURT OF JUDI-
CATURE TO BE HOLDEN FOR THE COUNTY OF YORK.

From the en-
grossment.
Province Laws,
ii., 309, note.
Legislative Rec-
ords of the
Council, xi.,
567; xii., 16, 17,
24. Journals of
the House of
Representa-
tives, 1723, June
25; Aug. 15-17,
20, 23. Suffolk
Court Files,
14096. Records
of the Superior
Court of Judi-
cature, 1715-
1721, fol. 299;
1725-1729, fol. 1.
York Inf. Court
of Common
Pleas, July,
1719: Files;
Records.

WHEREAS the said Caleb Spurrier by his Petition hath shewed forth that he brought forward his Action Dated June 12. 1719, against the said John Butler for the Recovery of the Sum of Sixty three Pounds five Shillings to ballance the Accompt to the Writt annex'd, And at the Inferiour Court of Common Pleas held at York for the County of York on the first Tuesday of July then next ensuing, Judgement was rendered for the said Caleb Spurrier the Sum sued for & cost; From which Judgem^t the said John Butler appealed to the Superiour Court of Judicature held at York for the s^d County of York the twelfth Day of May, *Anno Dom.* 1720. & Recognized; But so it was, The said Spurriers Affairs called him to Great Britain & he left the said Case with his Attorney to manage, Who neglected to appear at the said Superiour Court, By Means whereof he was call'd out, & the former Judgement was reversed, so that without Relief from this Court he can not recover his said Debt:

Be it therefore Enacted by the Lieutenant Governour, Council & Representatives in General Court assembled & by the Authority of the same

That the said Caleb Spurrier be & hereby is Authorized & Impow-
ered to Review His said Action at the next Superiour Court of Judi-
cature to be holden at York for the County of York; And the Justices
of the said Superiour Court are hereby Impowered & Directed to pro-
ceed to a Tryal of the said Case according to the Rules of Law, & Jus-
tice, & to give Judgement therein & award Execution thereupon: The
afore said Judgement by Default, Or Any Law Usage or Custom to the
Contrary notwithstanding. [*Passed August 24.*]

[No. 70.]

AN ACT TO ENABLE BARTHOLEMW JACKSON OF MARBLEHEAD IN THE COUNTY OF ESSEX PHYSICIAN TO FILE REASONS & PROSECUTE HIS APPEAL AT THE NEXT SUPERIOUR COURT OF JUDICATURE TO BE HOLDEN AT SALEM FOR THE COUNTY OF ESSEX ON THE LAST TUESDAY IN OCTOBER NEXT FROM A JUDGEMENT OF AN INFERIOUR COURT OF COMMON PLEAS HOLDEN AT SALEM IN THE COUNTY OF ESSEX ON THE LAST TUESDAY OF DECEMBER LAST PAST, OBTAINED AGAINST HIM BY NICHOLAS ANDREWS & MARY HIS WIFE AS THEY WERE ADMINISTRATORS *DE BONIS NON* TO THE ESTATE OF SAMUEL REED LATE OF MARBLEHEAD DEC?

WHEREAS the said Nicholas Andrews & Mary his Wife in their said Capacity commenced their Action of Trespass & Ejectment against Joseph Smith of Marblehead aforesaid Barber (who was Tenant to the said Bartholemew Jackson) at the said Inferiour Court in December, when & where the said Jackson was admitted Defend^t in the Room of the Terre-Tenant, & Judgem^t of the said Court was, That the said Nicholas Andrews & Mary his Wife in their Capacity should recover Possession of the House & Land sued for & Costs of Court; From which Judgem^t the said Jackson appealed to the next Superiour Court to be holden for the said County at Ipswich, & Recognized to prosecute his Appeal with Effect, but not Filing his Reasons as the Law directs, the said Nicholas Andrews & Mary his Wife Administ^r &c filed their Complaint at the said Superiour Court at Ipswich on the third Tuesday in May last & had the Judgem^t of the Inferiour Court affirmed with additional Costs, And have taken Possession of the said House & Land by an *Habere facias Possessionem* whereby the said Jackson is left without Remedy in the Law, & by his Petition hath shown forth the Reasons of his not Prosecuting his Appeal & hath Prayed for Relief; Wherefore for Relief of the said Bartholemew Jackson, & that Justice may be done,

Be it Enacted by the Lieutenant Governour Council & Representatives in General Court assembled & by the Authority of the same

that upon the said Bartholemew Jacksons Filing his Reasons of Appeal from the Judgement of the said Inferiour Court, in the Clerks Office of the said Inferiour Court fourteen Days at least before the Sitting of the next Superiour Court for the said County of Essex at Salem, & Observing the Directions of the Law relating to Prosecuting Appeals, The Judges of the said Superiour Court shall be & hereby are Impowered & Directed, to Hear, Try & Pass Judgement in the said Action as well upon the Pleas in Abatement reserved in the said Inferiour Court, as upon the final Judgement thereof upon the Merits of the Cause If the Pleas in Abatement be not sufficient to Quash the Writt; Any Law Usage or Custom to the Contrary notwithstanding.
[Passed August 24.]

From the engrossment.
Province Laws, II., 309, note.
Journals of the House of Representatives, 1723, Aug. 9, 16, 17, 21, 23. Legislative Records of the Council, XII., 4, 12, 19, 24. Suffolk Court Files, 17330. Records of the Superior Court of Judicature, 1721-1725, fol. 145, 204. Essex Inf. Court of Common Pleas, Dec., 1722: Files; Records.

[No. 71.]

AN ACT FOR ENABLING PATIENCE COPP OF BOSTON IN THE COUNTY OF SUFFOLK WIDOW, AS SHE IS GUARDIAN TO CHARLES SHORT & KATHERINE SHORT MINORS UNDER THE AGE OF TWENTY ONE YEARS TO MAKE SALE OF THE RIGHT & INTEREST OF THE SAID MINORS IN A PIECE OF LAND AND FLATTS IN THE SOUTH END OF BOSTON.

From the engrossment.
Province Laws, li., 309, note.
Journals of the House of Representatives, 1722-23, Jan. 12; 1723, May 31; June 11; Aug. 21, 22, 27. Legislative Records of the Council, xi., 546; xii., 23, 29. Suffolk Probate Files, 4591, 4592. Suffolk Probate Records, lib. 22, pp. 548, 549. Suffolk Registry of Deeds, lib. 38, fol. 141, 142.

WHEREAS the said Patience Copp hath by her Petition sett forth that the said Minors are Interested in Right of their Father Thomas Short Dec^d one Fifth in a small Piece of Land and Flatts scituate at the South End of Boston adjoining to the Land of M^r Henry Hill, That the said Land & Flatts is at Present of no Benefit or Advantage to the Persons interested therein, & will not Rent for any Thing, And has prayed that she may be Authorized & Impowered to sell the Right and Interest of the said Minors in the said piece of Land & Flatts;

Be it Enacted by the Lieutenant Governour Council and Representatives in General Court assembled & by the Authority of the same,

That the said Patience Copp as Guardian as aforesaid be & hereby is Authorized & Impowered to make Sale of the Right & Interest of the said Minors in & unto the above said Piece of Land & Flatts, & to execute a good Deed of Sale in the Law for the same; Any Law, Usage or Custom to the Contrary notwithstanding. [*Passed August 28.*]

[No. 72.]

AN ACT TO ENABLE THE JUSTICES OF HIS MAJESTIES SUPERIOUR COURT OF JUDICATURE TO CHAUNCE A JUDGEMENT RECOVERED BY NATHANIEL & TIMOTHY HALLOWAY AGAINST JARED TALBOT ESQ^r

WHEREAS Jared Talbot of Dighton in the County of Bristol Esq^r hath represented to this Court, That he is much wrong'd by a Judgement obtained against him at the Superiour Court held at Bristol on the second Tuesday of September 1713, by Nathaniel Halloway of Taunton in the County of Bristol Husband Man, & Timothy Halloway of Dighton afore said Husband Man for the Sum of Seventy five Pounds three Shillings Money Debt & Costs of Suit, And that the said Halloways notwithstanding have brought their Writt of *Scire facias* against him the said Talbott, Which is Continued to the next Superiour Court of Judicature to be held at Bristol in Order then to have Execution for the said Debt & Costs without any Abatement or Allowance for what the said Talbot ought in Equity & Justice to have, as he says, And he being without Remedy in the Law;

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in General Court assembled & by the Authority of the same,

That the Justices of the said Superiour Court of Judicature be & hereby are Authorized & Directed at the next Superiour Court of Judicature to be held at Bristol for the County of Bristol on the second Tuesday of September next, to hear the said Parties & to Chaunce the said Judgement (upon which the *Scire facias* issued on the fourth Day of August 1722, & was Continued to that Session) to the just Debt & Damages according to Equity & good Conscience *Provided* the said Jared Talbot notify the said Nathaniel & Timothy Halloway (or one of them) of this Act seven Days before the Sitting of the said Court; Any Law Usage or Custom to the Contrary notwithstanding. [*Passed August 30.*]

From the engrossment. Province Laws, ii., 309, note. Legislative Records of the Council, xi., 417, 442; xii., 27, 31, 33. Journals of the House of Representatives, 1722, Nov. 26; Dec. 13, 19; 1723, Aug. 27, 29, 30. Bristol Inf. Court of Common Pleas: Records, 1702-1720, pp. 172, 240. Suffolk Court Files, 12902, 12907, 15381, 19585, 23306. Records of the Superior Court of Judicature, 1721-1725, fol. 22, 136.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-THIRD DAY OF OCTOBER, A.D. 1723.

[No. 73.]

AN ACT FOR THE CONFIRMING & MORE SURE MAKING TO SAMUEL BROWN OF ROWLEY IN THE COUNTY OF ESSEX HUSBAND MAN & TO HIS HEIRS FOR EVER CERTAIN HOUSING & LANDS WITHIN THE TOWNS OF ROWLEY & BRADFORD GRANTED TO HIM BY HIS FATHER JOHN BROWN LATE OF SAID ROWLEY YEOMAN DEC^p

From the engrossment.
Province Laws, ii., 309, note.
Journals of the House of Representatives, 1723, Nov. 12, 26; Dec. 3, 4, 16.
Legislative Records of the Council, xii., 94, 99, 104, 123.
Essex Probate Files, 3621.
Essex Registry of Deeds, book 41, leaves 63, 64.

WHEREAS it hath been made plainly to appear to this Court by a Deed shewn forth or produced under the Hand & Seal of the said John Brown that He the said John Brown in his Life Time in Consideration of his Love to his said Son Samuel Brown & the Sum of One Hundred Pounds to his said Father, He did absolutely Give & Grant Sell & Confirm to the said Samuel Brown & to his Heirs & Assigns for Ever all his Housing Lands & Meadow being in the Township of Rowley & also all his Land & Meadow lying in the Township of Bradford with the Profits Privileges and Appurtenances & Common Rights to the Same belonging or in any Ways appertaining;

And whereas the said John Brown dyed before he acknowledged the said Deed, & the same being afterwards found in his House was torn & partly defaced & hid in the Ground;

But forasmuch as the said Deed was executed by the said John Brown the Granter in the Presence of two credible Witnesses who made solemn Oath to the Execution thereof, And the afore said Sum of One Hundred Pounds was *Bonâ Fide* & honestly paid to the said John Brown in his Life Time by his said Son Samuel Brown:

Be it therefore Enacted by the Lieutenant Governour Council and Representatives in General Court assembled & by the Authority of the same

That the said Housing Lands & Premises before mentioned to be given & granted in & by the said Deed be & hereby are Ratified & Confirmed to the said Samuel Brown his Heirs & Assigns for Ever as a free Estate of Inheritance in Fee Simple as fully amply & effectually to all Intents, Constructions & Purposes in the Law As if the said Deed had been Acknowledged by the said John Brown in his Life Time recorded & remained undefaced fair & not torn to this Day in the Hands & Possession of the said Samuel Brown; Any Law Usage or Custom to the Contrary notwithstanding. [Passed December 16.]

[No. 74.]

AN ACT TO ENABLE FRANCIS MOORE OF [BOS*]TON CARPENTER GUARDIAN OF WILLIAM COOK A MINOR [SON OF*] WILLIAM COOK LATE OF SAID BOSTON MARINER & LYDIA HIS WIFE [BOTH*] DECEASED INTESTATE TO SELL THEIR PART OF A CERTAIN HOUSE & LAND IN BOSTON.

WHEREAS it hath been made appear to this Court by the Petition & Accompt of the said Francis Moore that there is near fourteen Pounds due to him for the Board of the said Minor William Cook,

And forasmuch as there will arise a further Charge for Cloathing & Boarding him before he will be of suitable Age to be bound out Apprentice, And the Administrator to the Estate of the said William Cook Dec^d having already paid away the Value of his personal Estate to discharge his just Debts;

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in General Court assembled & by the Authority of the same,

That the said Francis Moore as Guardian afore said be & hereby is Authorized & Impowered to sell & dispose of the Right Title & Interest of and in a certain House & Land at the North End [in*] Boston near adjoining to the Meeting House commonly called the [old*] North Meeting House whereof the said William Cook & Lydia his [W*]ife died seized, The said Land measuring fifteen feet in Breadth, & runs forty Feet in Length, and Part of the late Dwelling House of John Moor of Boston Brewer Dec^d stands thereon; The said Francis Moor to attend the Direction of the Law relating to Executors or Administrators selling of Real Estates of Persons Dec^d in Posting up Notifications thirty Days before the Sale thereof, To the Intent the said Estate may be sold to such Person as will give most for the same, for the End afore said, The said Francis Moore as Guardian afore said to accompt with the Judge of Probate for the Overplus (if any there be) Any Law Usage or Custom to the Contrary notwithstanding. [Passed December 20.

From the engrossment. Province Laws, li., 309, note. Legislative Records of the Council, xi., 545; xli., 7, 123, 134. Journals of the House of Representatives, 1723, June 24; Aug. 13; Nov. 19; Dec. 4, 17, 19. Suffolk Probate Files, 3836; Records, lib. 19, p. 324; lib. 20, p. 20; lib. 21, pp. 94, 96; lib. 22, p. 364. Suffolk Registry of Deeds, lib. 37, fol. 160.

* Engrossment mutilated.

[No. 75.]

AN ACT IN ADDITION TO A PRIVATE ACT ENTITLED AN ACT TO ENABLE BARTHOLEMW JACKSON OF MARBLEHEAD IN THE COUNTY OF ESSEX PHYSICIAN TO FILE REASONS & PROSECUTE HIS APPEAL AT THE NEXT SUPERIOUR COURT OF JUDICATURE TO BE HOLDEN AT SALEM FOR THE COUNTY OF ESSEX ON THE LAST TUESDAY OF OCTOBER NEXT FROM A JUDGEM^t OF AN INFERIOUR COURT OF COMMON PLEAS HOLDEN AT SALEM IN THE COUNTY OF ESSEX ON THE LAST TUESDAY OF DECEMBER LAST PAST OBTAINED AGAINST HIM BY NICHOLAS ANDREWS & MARY HIS WIFE AS THEY WERE ADMINISTRATORS *DE BONIS NON* &c. TO THE ESTATE OF SAMUEL READ LATE OF MARBLEHEAD DEC^d

Ante, No. 70.
From the engrossment.
Province Laws, li., 309, note.
Legislative Records of the Council, xli., 106, 125, 132, 136.
Journals of the House of Representatives, 1723, Dec. 10, 16, 18, 20.

WHEREAS in & by the above recited Act the said Bartholemew Jackson was enabled to file his Reasons of Appeal in the above recited Cause fourteen Days before the Sitting of the last Superiour Court of Judicature for the County of Essex at Salem, And by Vertue thereof at the said Court held the last Tuesday of October last obtained Judgem^t that the said Writt should abate, & that the former Judgem^t should be reversed, And that the said Jackson the Appell^t should recover Costs of Courts, But for Want of sufficient Words in said Act to Impower the Judges of the said Court to pass Judgement & to Order Execution to Issue for Putting the said Jackson in Possession of the House & Land sued for as in his former Estate, The said Jackson is still kept out of his Possession of the same & can in no wise obtain it without Commencing a Suit at Law for Recovery thereof (W^{ch} seem'd to be Contrary to the true Intent & Meaning of the said already recited Act) which would not only be a great Charge & Expence to him but otherwise inconvenient to him for Want of the Improvement of his said House & Land (as in & by his Petition is set forth) & hath prayed for Relief;

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in Gen^l Court assembled, & by the Authority of the same

that the Judges of the Superiour Court next to be holden in the County of Essex be & hereby are Enabled to make up Judgem^t in the Cause afore said, To Wit, Wherein Bartholemew Jackson of Marblehead in the County of Essex Physician was Appell^t against Nicholas Andrews of Marblehead in the said County of Essex Inn holder & Mary his Wife Relict & Executrix of Samuel Read late of Marblehead Inn-holder Dec^d as the s^d Nicholas Andrews & Mary his Wife are Administ^r *de Bonis non Administratis* of all & singular the Goods, Chattels, Rights & Estate of the said Samuel Read Dec^d Appellee in the said Action (according to the Judgement of the last Superiour Court at Salem afore said & in Addition to the former Judgem^t of said Court) That the said Bartholemew Jackson the Appellant in said Cause recover Possession of the said House & Land sued for (according to the Bounds mention'd in the Original Writt in that Cause) against the Terr Tenants in Possession thereof, And that Execution be awarded accordingly to reinstate the said Bartholemew Jackson in the Possession of the said House & Land described as afore said) in his former Estate; Any Law Usage or Custom to the Contrary thereof in any wise notwithstanding. [*Passed December 20.*]

[No. 76.]

AN ACT TO ENABLE ISAAC LITTLE OF MARSHFIELD IN THE COUNTY OF PLYMOUTH ESQ^s TO BRING FORWARD A FURTHER WRIT OF REVIEW AGAINST JOSEPH MALLINSON [OF B*]OSTON IN THE COUNTY OF SUFFOLK MERCHANT [AT T*]HE SUPERIOUR COURT OF JUDICATURE TO BE HOLDEN AT PLYMOUTH [ON*] THE LAST TUESDAY OF APRIL NEXT OF A JUDGMENT OF THE SUPERIOUR COURT HOLDEN AT PLYMOUTH ON THE LAST TUESDAY OF APRIL LAST AND FOR A NEW TRYALL OF THE SAID CAUSE.—

WHEREAS at the Superiour Court of Judicature holden at Plymouth on the last Tuesday of April last past the said Isaac Little and the said Joseph Mallinson each of them brought forward a writt of Review of a Judgment of the Superiour Court held at Plymouth on the last Tuesday of April 1723 of or concerning the said Isaac Little his having Improv'd the Furnace in Pembroke in the County of Plymouth for several years preceeding the Original Writ brought therefor by the said Joseph Mallinson

and Whereas at the Tryall on the said Reviews the said Isaac Little failed of making use of Matters to his Advantage in the Cause whereby the said Isaac Little Alledges he is greatly injured And that by Law there can be no further Tryalls in that Case. —

Be it therefore Enacted by the Lieutenant Governour Council and Representatives in General Court Assembled and by the Authority of the same

that the said Isaac Little have Liberty to bring forward a Writ of Review for another Tryall of the said Judgement of April Last at the Superiour Court to be holden at plimouth on the last Tuesday of April next The Costs and Charges of all Former Tryalls therein To remain as they are And that the Judges of the Superiour Court be hereby Authorized and Impowred to Receive hear and Determine the said Case at the said Court and make Judgment and Award Execution thereon Accordingly. —

And Be it further Enacted by the Authority aforesaid

that the said Joseph Mallinson shall have the same benefit of and on the s^d Tryal (by an increase of Damages) as if he were Plaintiff in the s^d Review or new Tryall. — Any Law Usage or Custom to the Contrary notwithstanding. — [*Passed December 23.*]

From the engrossment. Province Laws, ii., 309, note. Journals of the House of Representatives, 1723, June 12, 27; Aug. 8; Nov. 22; Dec. 9, 10, 14, 16, 17, 23. Legislative Records of the Council, xi., 573; xii., 8, 88, 123, 140. Plymouth Inf. Court of Common Pleas: Records, vi., 330, 331. Suffolk Court Files, 9948, 12963, 16309, 17706, 17793. Records of the Superior Court of Judicature, 1721-1725, fol. 100, 101, 171, 173, 267.

* Engrossment mutilated.

† *Sic.*

[No. 77.]

AN ACT TO ENABLE CPT. JOSIAH WINSLOW, & HIS SON JOSIAH WINSLOW & ELISHA BLACKMAN TO CONTEST IN THE LAW AT THE NEXT SUPERIOUR COURT OF JUDICATURE TO BE HOLDEN AT BRISTOL WITHIN & FOR THE COUNTY OF [BRISTOL] THE VALIDITY OF A RULE OF COURT BY THEM ENTER'D INTO, THE AWARD OF THE [EXECUTION]S & THE JUDGEMENT OF THE S^d COURT THEREUPON.

From the engrossment.
Province Laws, ii., 309, note.
Legislative Records of the Council, xii., 51, 94, 123, 129, 133, 140. Journals of the House of Representatives, 1723, Nov. 16, 18, 26; Dec. 17, 20, 23. Suffolk Court Files, 17134, 17414, 17940, 19669. Records of the Superior Court of Judicature, 1721–1725, fol. 67, 221.

WHEREAS the said Josiah Winslow & Josiah Winslow jun^r his Son, & Elisha [Blackm^a]an by their Petition shewed forth that Timothy Lindal Esq^r brought forward [an^a] Action of Trespass & Ejectment against James Cudworth & David Cudworth for the Recovery of Lands therein mentioned to be heard at an Inferiour Court held at Bristol aforesaid on the first Tuesday of July 1721, Where the said Defendants pleaded not guilty, And upon that Issue Judgement was then & there rendered for the said Plaintiff the Land sued for & Costs, From which Judement the Defendants appealed to the then next Superiour Court to be held at Bristol &^a on the second Tuesday of September following, At which said Court the said Petitioners were prevailed upon (though no Parties to the Suit) to enter into a Rule of Court (as in the said Petition is more at large sett forth) And the said Case was thereupon Continued to the next Superiour Court, When & where by Vertue of the said Rule of Court, A Report was made & Judgement was then & there by the said Superiour Court enter'd up accordingly & Execution executed;

And whereas the said Petitioners by their said Petition further suggested that by Means thereof there was taken from them Six Hundred Pounds in Land & upwards, and that there were many good & sufficient Exceptions to [be ta^a]ken to the said Rule of Court, Report & Judgem^t thereupon according to the Rules [& aut^a]horities in the Law, but inasmuch as Execution is executed strictly according to [rul^a]e they can not be admitted to make the same, And therefore prayed the said [ru^a]le of Court to be declared null & void as to the said Petitioners;

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in General Court assembled & by the Authority of the same,

That the said Josiah Winslow, Josiah Winslow jun^r & Elisha Blackman shall be & hereby are Authorized & Impowered at the next Superiour Court of Judicature to be held at Bristol &c on the second Tuesday of September next to Contest in the Law the Validity of the said Rule of Court, the Award of the Referrees & the Judgem^t of the said Court, They lodging fourteen Days before the Sitting of the said Court in the Hands of the Clerk of the said Court their Reasons & Exceptions to the same, And the Judges of the said Superiour Court are hereby Authorized & Impowered to Judge & Pass upon the same, & to Declare the said Rule of Court, Award of the Referrees, Judgement & Execution to be to all Intents & Purposes utterly Null & Void as to the said Petitioners if the same is not agreable & conformable to the Rules & adjudged Cases in the Law, Notwithstanding the said Petitioners Entering into the same by Consent or Any Law Usage or Custom to the Contrary. *Provided* the said Josiah Winslow serve the adverse Party with a Copy of this Act at least fourteen Days before the Sitting of the said Court [Passed December 24.

[No. 78.]

AN ACT TO REVIVE THE APPEAL OF BENJAMIN BLACKSTONE AND GEORGE FELT.

WHEREAS George Felt of Salem in the County of Essex Block-Maker by the Consideration of his Majesties Inferiour Court of Common Pleas held at Salem within & for the County of Essex on the last Tuesday of June last recovered against Benjamin Blackstone of Salem in [th*]e County of Essex Sawyer Eight Pounds Damage & Costs of Court, And the said Blackstone appeal'd to his Majesties Superiour Court of Judicature held at Salem within & for the County of Essex on the last Tuesday of October last & Recognized according to Law, But for some Failure in the Reasons of Appeal, they were quash'd at the said Superiour Court, And the said George Felt admitted to file his Complaint against the said Blackstone for Failing to prosecute his Appeal, And the former Judgement was confirm'd with Additional Costs, Whereupon the said Blackstone has prayed the Aid of this Court, As by his Petition & Reasons therein contained on File may appear

Be it therefore Enacted by the Lieutenant Governour Council & Representatives in General Court assembled & by the Authority of the same,

That the said Benjamin Blackstone shall & may enter his Appeal from the Judgement of said Inferiour Court (*De Novo*) to the next Superiour Court of Judicature to be holden at Ipswich within & for the County of Essex on the third Tuesday of May next, & pursue the same to Effect, So that he file his Reasons of Appeal within the Month of January next, Recognizing at the same Time according to Law, The Costs hitherto sustain'd to remain as they are: Any Law, Usage or Custom to the Contrary hereof in any wise notwithstanding [*Passed December 24.*]

* Engrossment mutilated.

From the engrossment.
Province Laws, II., 310.
Journals of the House of Representatives, 1723, Nov. 26; Dec. 17, 21, 24.
Legislative Records of the Council, xii., 125, 132, 141.
Essex Inf. Court of Common Pleas, June, 1723: Files; Records. Suffolk Court Files, 17058, 17332, 22792. Records of the Superior Court of Judicature, 1721-1725, fol. 146, 202.

[No. 79.]

AN ACT FOR TAKING OFF THE ENTAIL UPON CERTAIN ESTATES IN THE COUNTY OF ESSEX LATE THE ESTATES OF NATHANIEL SALTONSTALL OF HAVERHILL IN SAID COUNTY ESQ^r DEC^d WHICH HE WAS SEIZED OF AS TENANT IN TAIL.

From the engrossment.
Province Laws, ii., 810.
Legislative Records of the Council, xii., 118, 123, 124, 141.
Journals of the House of Representatives, 1723, Dec. 13, 17, 18, 20, 24. Essex Probate Files, 24538.
Essex Registry of Deeds, book 22, leaf 114; book 37, leaf 52; book 44, leaves 289, 290; book 51, leaf 142; book 58, leaf 85.

WHEREAS the younger Children of Nathaniel Saltonstal late of Haverhill in the County of Essex Esq^r Dec^d have shewn to this Court that the Estate which they have received from their said Father either by Deed in his Life Time, or by Will at his Decease was granted to him & the Heirs of his Body, & belong'd to him only as Tenant in Tail (his whole Personal Estate being otherwise disposed of in his last Will) and that therefore if the said Estates should remain so entailed most of the said Children might in a little Time be utterly deprived of all that Comfort & Support by them, Which (as they have also shewn) their s^d Father design'd them, And the said Children having thereupon petition'd that the said Entail might be taken off, & the said Estates with the Consent of Gurdon Saltonstall of New [L]ondon Esq^r eldest Son of the said Nathaniel Saltonstall, be settled in Fee Simple on all the Children of the said Nathaniel or such as may legally represent them, & in such Proportion upon each of them as shall be mutually agreed on between them, The said Eldest Son also appearing personally in Court & declaring his Consent not only to the Truth of the Allegations in the said Petition but also to the Prayer of it, for Taking off said Entail

Be it therefore Enacted by the Lieutenant Governour Council and Representatives in General Court assembled & by the Authority of the same

That it shall & may be lawful for the Children of the said Nathaniel Saltonstall of Haverhill afore said Esq^r Dec^d or such as legally represent them either by them selves or by their Attorneys or the Guardians of such as may be in their Minority by Writing under their Hands & Seals to Agree & Covenant what Part or Parts, Proportion or Proportions of the said entailed Estate or Estates shall upon Taking off said Entail, be & belong an Estate or Estates in Fee Simple to each of the said Children or such as shall legally represent them :

Be it also Enacted by the Authority aforesaid

That all such [Est*]ate or Estates or such Parts or Proportions of the said entail [Est*]ate or Estates as shall by such Agreement as afore said be Declar[ed*] to belong or be an Estate in Fee Simple to any of the Children of [th*]e said Nathaniel or such as legally represent them, Such Estate or Estates or such Parts or Proportions of them shall be & remain a good & lawful Estate of Inheritance in Fee Simple to the said Children respectively, & to their Heirs according to the Settlement Partition or Severalties concluded & determined by such Agreement; Any Law, Usage or Custom to the Contrary notwithstanding. [*Passed December 24.*]

* Engrossment mutilated.

PRIVATE ACT,

PASSED 1742-43.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SIXTH DAY OF MAY, A.D. 1742.

[No. 80.]

AN ACT TO TAKE OFF THE ENTAIL FROM CERTAIN LANDS IN IPSWICH
IN THE COUNTY OF ESSEX, LATE THE ESTATE OF JOHN WAIN-
WRIGHT ESQ^R DECEASED, & TO ENABLE CHRISTIAN WAINWRIGHT
HIS RELICT WIDOW TO SELL THE SAME.

WHEREAS Coll. John Wainwright Father of the said John Wainwright heretofore of Ipswich aforesaid Deceased, did by his last Will & Testament give & bequeath to his three Sons; viz, Francis, John & Samuel & their Heirs, his Real Estate & entailed the same on them in the Words following; viz, "All my Real Estate in Houses & Lands, I give to my said three Sons & do entail said Real Estate to the Male Heirs of my said Sons lawfully begotten of their Bodies" Parcels of which Estate afterwards in the Division thereof among the said three Sons, fell to the said John, Husband of the said Christian, who is since deceased, & left behind him two Sons, namely John & Francis, Minors; to whom the said Parcels by force of the Testament aforesaid, descend in Fee Tail;

And whereas the Income arising from the Estate is not sufficient to bring up the said Minors & defray the Charge of their Education; and there not being other Estate sufficient for that purpose, It appears necessary that Part of the Estate be sold to raise Money to defray the said Charge; which cannot be without the Interposition of this Court; Wherefore,

Be it Enacted by the Governor Council & House of Representatives

That the Entail so far as it respects the following Pieces of the said Lands; viz, a Right of Land in Lamsons Hill so called, commonly called Pine Swamp; also a Wood Lot, Number Four Hundred & eighty in Chebacco Woods; also an other Right belonging to Bennets Farm lying in Thick Wood all in Ipswich aforesaid, be & hereby is taken off & declared null & void & of no Effect in Law for the future; And the said Christian Wainwright is hereby fully authorized, impowered & directed in behalf of the said Minors to sell the same for the most it will fetch, & to pass and execute a good & lawful Deed or Deeds of the same, to the Purchaser or Purchasers his or their Heirs & Assigns in Fee Simple for ever; she giving Caution to the Judge of Probate for the County of Essex That one third of the Proceeds of such Sale be at the time of her decease paid to the said Minors John & Francis or to their Heirs in the following proportion; namely, Two third Parts

Disallowed by the privy council, May 28, 1746.
From the engrossment.
Bill in Mass. Archives, xviii., 37-39.
Province Laws, iii., 67, note.
Mass. Archives, xviii., 31-36.
Journals of the House of Representatives, 1742, June 3, 4, 9, 10, 12, 18.
Legislative Records of the Council, xviith, 410, 413, 424.
Essex Probate Files, 28671, 28676, 28680.
Essex Registry of Deeds, book 81, leaf 183; book 84, leaves 114, 115; book 100, leaf 237; book 125, leaf 197.
"Mass. Bay, Board of Trade," vol. 71, F. f. 8; vol. 72, F. f. 90, 94; vol. 84, pp. 103, 163; in Public Record Office, London.

of the said Third to the said John, & the other Third to the said Francis ; And the remaining two Thirds be in the same proportion forthwith, or as Occasion shall require, applied to defray the Charge of the said John & Francis's Education ; And all Proceedings in Consequence of this Act shall be deemed construed & adjudged to be legal & valid in Law according to the true Intent & Meaning hereof ; Any thing in said Will or Testament contained to the Contrary notwithstanding. [*Passed June 18.*]

PRIVATE ACT,

PASSED 1754-55.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SEVENTEENTH DAY OF OCTOBER, A.D. 1754.

[No. 81.]

AN ACT TO DISSOLVE THE MARRIAGE OF MARY CLAPHAM WITH
WILLIAM CLAPHAM, AND TO ALLOW HER TO MARRY AGAIN.

WHEREAS Mary Clapham hath by a Decree of the Governour and Council been divorced, as to Bed and Board only, from William Clapham, upon Proof of his Violation of his Marriage Contract with the said Mary, by leaving the said Mary, cohabiting and committing Adultery with another Woman; But the said Mary still remains undischarged of her Marriage Contract, and hath petitioned for Relief in this Behalf.

Be it therefore enacted by the Governour, Council and House of Representatives,

That the Marriage between the said William Clapham and Mary Clapham shall henceforth, as far as it concerns the said Mary, be dissolved and annulled, and that she on her Part shall be and is to all Intents and Purposes discharged from the Bands of her Marriage to him; and that it shall and may be lawful for her to marry again.
[Passed January 10; published January 13, 1755.]

xxxiii., 149. Executive Records of the Council, xli., 349, 361, 363, 386. "Mass. Bay, Board of Trade," vol. 75, I. i. 3; vol. 84, p. 464; in Public Record Office, London. Province Laws, iii., 1754-55, chap. 15 and note.

From the engrossment. Bill in Mass. Archives, ix., 382. Province Laws, iii., 939, note. Files of divorce cases, 1739-1771, in the office of the clerk of S. J. C., Suffolk. Journals of the House of Representatives, 1754, Dec. 3, 19-21, 23; 1755, Jan. 2, 8, 9. Legislative Records of the Council, xx., 337, 346, 351, 373, 379. Mass. Archives, ix., 381;

PRIVATE ACTS,

PASSED 1755-56.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 1755.

[No. 82.]

AN ACT TO DISSOLVE THE MARRIAGE OF MARY PARKER WITH
PHINEAS PARKER, AND TO ALLOW HER TO MARRY AGAIN.

WHEREAS Mary Parker hath petitioned this Court that her Marriage Contract with Phineas Parker may be dissolved, in as much as the said Phineas Parker has for sundry Years pass'd left the said Mary, and stands convict of committing Adultery with another Woman.

Be it therefore enacted by the Governour, Council and House of Representatives,

That the Marriage between the said Phineas Parker and Mary Parker, shall hence forth, as far as it concerns the said Mary, be dissolved and annulled, and that she on her Part shall be and is to all Intents and Purposes discharged from the Bonds of her Marriage to him, And that it shall and may be lawful for her to marry again. [*Passed and published June 10.*]

Executive Records of the Council, xii., 337, 347. "Mass. Bay, Board of Trade," vol. 74, H. b. 66, in Public Record Office, London. "Trade Papers," vol. 58, in Public Record Office, London.

From the engrossment.
Bill in Mass. Archives, ix., 380.
Province Laws, iii., 939, note.
Mass. Archives, ix., 374, 378, 379.
Legislative Records of the Council, xx., 460, 461, 470.
Journals of the House of Representatives, 1755, April 28; June 5, 9.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MARCH, A.D. 1756.

[No. 83.]

AN ACT TO DISSOLVE THE MARRIAGE OF JOHN FARNUM JUN^R WITH
ELIZTH FARNUM AND TO ALLOW HIM TO MARRY AGAIN —

No engross-
ment.
From the bill in
Mass. Archives,
ix., 308.
Province Laws,
iii., 939, note.
Mass. Archives,
ix., 306. Legis-
lative Records
of the Council,
xxi., 97, 157, 161.
Journals of the
House of Rep-
resentatives,
1756, Feb. 12;
April 9, 14, 15.
"Trade
Papers," vol.

WHEREAS John Farnum Jun^r hath Petitioned this Court that his Marriage Contract with Elizebeth Farnum may be Dissolved, In as much as the said Elizth Farnum has been Guilty In the Judgment of this Court of the Crime of Adultery

*Be it therefore Enacted by the Gov^r. Council & House of Repre-
sentatives*

That the Marriage Between the said John Farnum & Elizth Farnum shall Hence forth as far as it Concerns the said John be Dissolved & Annulled and that He on his part shall be and is to all Intents & Purposes Discharged from the Bonds of his Marriage to her, And that it shall & may be Lawfull for him to Marry Again — [*Passed April 15, 1756.*]

55, and "Mass. Bay, Board of Trade," vol. 75, I. 1. 5, — in Public Record Office, London.

PRIVATE ACTS,

PASSED 1756-57.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE THIRTIETH DAY OF MARCH, A.D. 1757.

[No. 84.]

AN ACT TO DISSOLVE THE MARRIAGE OF LYDIA KELLOGG WITH
EPHRAIM KELLOGG AND TO ALLOW HER TO MARRY AGAIN

WHEREAS Lydia Kellogg hath petitioned this Court that her marriage with Ephraim Kellogg may be dissolved and inasmuch as it appears to this Court that the s^d Ephraim hath been guilty of the crime of adultery —

Be it therefore Enacted by the Council & House of Representatives that the marriage between the said Ephraim Kellogg & Lydia Kellogg shall hence forth so far as it concerns the s^d Lydia be dissolved & annulled, & that she on her part shall be, & is to all intents & Purposes discharged & absolved from the bonds of Her marriage to Him — and that it shall & may be lawful for Her to marry again — [*Passed April 18, 1757.*]

April 8, 13, 16, 18. "Mass. Bay, Board of Trade," vol. 85, in Public Record Office, London.

No engrossment.
From the bill, in Mass. Archives, ix., 412.
Province Laws, iv., 1054.
Mass. Archives, ix., 403-411.
Legislative Records of the Council, xxi., 497, 517. Journals of the House of Representatives, 1757, Jan. 12;

[No. 85.]

AN ACT TO DISSOLVE THE MARRIAGE OF JONAH GALUSHA WITH SARAH GALUSHA & TO ALLOW HIM TO MARRY AGAIN

No engrossment.
From the bill in Mass. Archives, ix., 414.
Province Laws, iii., 1064, note.
Legislative Records of the Council, xxi., 329, 500, 540.
Journals of the House of Representatives, 1757, Jan. 11; April 16, 22.

WHEREAS Jonah Galusha hath Petitioned this Court that his Marriage with Sarah Galusha may be Desolved; & in as much, as it appears to this Court that the said Sarah hath been Guilty of the Crime of Adultery —

Be it therefore Enacted by the Council & House of Representatives,

That the Marriage between the said Sarah Galusha & Jonah Galusha shall Henceforth so far as it Concerns the said Jonah be dissolved & annulled & that he on his Part shall be & is to all Intents & purposes discharged & absolved from the Bonds of his Marriage to her & that it shall & may be Lawful for him to Marry again — [*Passed April 22, 1757.*]

"Mass. Bay, Board of Trade," vol. 85, p. 11, in Public Record Office, London.

PRIVATE ACT.

PASSED 1757-58.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIFTH DAY OF MAY, A.D. 1757.

[No. 86.]

AN ACT FOR DISSOLVING THE MARRIAGE OF DANIEL M^cCARTHY
WITH MARY M^cCARTHY.

WHEREAS by a Decree of his Majesty's Council made and passed on Friday the tenth day of June 1757, Daniel M^cCarthy and his Wife Mary M^cCarthy were for Adultery of the said Mary seperated and divorced as to Bed and Board.

And Whereas the said Daniel hath supplicated this Court, that He may be wholly released from the Bonds of Marriage Contract with the said Mary, and be allowed to marry again.

Be it therefore Enacted by the Council and House of Representatives that the said Daniel M^cCarthy be wholly released and discharged from the Bonds of Marriage contracted with the said Mary, and that he be allowed to marry again, his said Marriage with her the said Mary notwithstanding. [*Passed June 14; published June 17.*]

14; Aug. 20, 23, 24. Executive Records of the Council, xiii., 250, 260, 262.

From the engrossment.
Bill in Mass. Archives, ix., 418.

Files of divorce cases, 1739-1771, in the office of the clerk of S. J. C., Suffolk. Mass. Archives, ix., 419. Legislative Records of the Council, xxii., 40. Journals of the House of Representatives, 1757, June 13,

[No. 87.]

AN ACT IMPOWERING MARGARET[T] POLLARD OF BOSTON IN THE COUNTY OF SUFFOLK WIDOW EXECUTRIX OF THE LAST WILL AND TESTAMENT OF BENJAMIN POLLARD ESQ^r DECEASED TO MAKE SALE OF CERTAIN LANDS THAT WERE CONVEYED TO THE SAID BENJAMIN POLLARD IN TRUST.

Preamble.

Disallowed by the privy council, Aug. 10, 1759.

Engrossment. Bill in Mass. Archives, xix., 571.

Printed in Mass. Perpetual Laws, 1692-1760 (ed. of 1742 and supplements), p. 485. Province Laws, iv., 92, note.

Mass. Archives, xix., 569. Journals of the House of Representatives, 1757, June 8, 13-15. Legislative Records of the Council, xxii., 49, 59. Suffolk Probate Records, vol. 52, p. 29. Suffolk Court Files, 11403. Middlesex Registry of Deeds, book 53, p. 452. "Mass. Bay, Board of Trade," vol. 77, K. k. 7; vol. 85, p. 11; in Public Record Office, London.

WHEREAS it appears that Jonas Clarke Esq^r on the fourth day of June 1756 by his Deed of that date, Registered in the Registry of Deeds for the County of Middlesex in Book 53 page 452, conveyed unto the said Benjamin Pollard Esq^r certain Lands s[c]i[t]uate partly in Waltham [&] [and] partly in Weston in the County of Middlesex containing one hundred [&] [and] thirty seven Acres, To hold to the said Benjamin as an absolute Estate of Inheritance in Fee Simple. That altho: the said Conveyance purports to be an absolute sale of said premis[s]es yet in fact the intent of the same was only to secure the payment of sundry sums of money due from the said Jonas to sundry Persons which the said Benjamin stood liable for the payment of: and the said Jonas on the twelfth of November last by his other Deed of that date Registered in the Registry of Deeds for the County of Worcester Book 38 page 138, conveyed unto the said Benjamin a certain Farm in Shrewsbury in the County of Worcester containing about one hundred and twenty acres; also about one hundred and sixty acres of Land in Holden in said County, also a tract of Land in Rutland in said County containing about one hundred [&] [and] fifteen acres and three quarters of an Acre, Also another Tract of Land in Rutland aforesaid containing about one hundred [&] [and] ten acres, also the said Jonas's Right in the Great Farm N^o [umb.] XXII in the north West Quarter of Rutland aforesaid, To hold the same to the said Benjamin and his heirs, upon Trust, That he the said Benjamin or his heirs Executors or Adm[inistrat]ors should within nine months from the date of said Deed by Deed or Deeds of Bargain and Sale legally Executed make Sale of all or so much of the said Lands and premis[s]es as should be sufficient to Pay [&] [and] Discharge all and every the Debts of the said Jonas which are mentioned in a schedule to the same Deed annexed, amounting to three hundred and thirteen Pounds three shillings and two pence, and for the payment of which the said Benjamin became liable; and the said Benjamin Pollard is deceased, and said Lands remain unsold, and his heirs are all Minors, and the said Margaret Pollard and Jonas Clarke have Petitioned that the said Margaret[t] Pollard may be fully empowered to execute said Trust in as ample manner as the said Benjamin Pollard could, and ought to have done if living, Therefore,

Be it Enacted by the Council and House of Representatives in General Court assembled,

Margaret Pollard allowed to sell lands.

That the said Margaret[t] Pollard be and hereby is authorized and fully empowered to sell all, or so much of the said Lands and premisses as shall be sufficient to Reimburse Pay and Discharge all such sum and sums of money and the Interest thereof as the said Benjamin in his lifetime paid and advanced for the said Jonas, also such further sums of money as the said Benjamin's Estate now stands liable for the Payment of for and on account of the said Jonas, and to that End to exe-

cute such Deed or Deeds as shall be necessary for the Bargaining and Conveying the aforesaid Lands and their appurtenances or any part thereof unto any Person or Persons in Fee.

And be it further Enacted

that the said Margaret Pollard be and hereby is fully Authorized and Impowered to Reconvey to the said Jonas or his heirs, such part of the said Lands and the Appurtenances thereof as shall remain unsold (if any there be) after the Payment of all such sum and sums of money as the said Benjamin in his lifetime paid and advanced for the said Jonas with the Interest thereof, and such further sums of money as the said Benjamin's Estate now stands liable for the payment of for and on account of the said Jonas, and to that end to pass and execute such legal Deed or Deeds as shall be found needful^[1] for that purpose: and if it happen that upon Sale of the premises or such part thereof as shall be necessary for the purposes aforesaid there should be an overplus^[s] of money in the hands of the said Margaret^[t], that then, and in such Case the said Margaret pay such overplus^[s] unto the said Jonas his Executors or Administrators. [*Passed June 16; published June 17.*]

To be accountable for produce of said sale.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE EIGHTEENTH DAY OF APRIL, A.D. 1758.

[No. 88.]

AN ACT FOR THE MORE EASY AND EQUITABLE DIVISION OF THE ESTATES OF JAMES TOWNSEND DECEASED, AND ELIZABETH CHAUNCEY DECEASED, YET REMAINING UNDIVIDED AMONG THE INTERESTED.

Disallowed by
the privy coun-
cil, Aug. 10,
1759.

From the en-
grossment.
Province Laws,
iv., 92, note.

Mass. Archives,
xix., 645. Jour-
nals of the
House of Rep-
resentatives,
1758, April 18,
19, 24. Leg-
islative Records
of the Council,
xvii., 204, 308.
Suffolk Probate
Files, 7155, 7158,
7160, 7161;
Records, lib. 83,
pp. 518, 544; lib.
84, p. 51; lib. 89,
pp. 121, 122; lib.
82, pp. 338, 339,
381; lib. 84, pp.
40, 50; lib. 88,
pp. 718, 720; lib.
91, p. 731.

WHEREAS William Blair Townsend of Boston in the County of Suffolk Gentleman, and John Winthrop, Adam Winthrop, James Winthrop, and William Winthrop, Infants, Sons of John Winthrop Esq' of Cambridge, and Heirs of Rebecca Winthrop deceased are Seized in Fee of certain Messuages and Lands adjoining in Boston aforesaid, to wit, two Messuages with Land adjoining situate in Cornhill, one Messuage and Land adjoining situate in Marlborough Street, a Messuage and Land adjoining in Rawsons Lane, whereof it appertains to the said William Blair Townsend to hold two third parts, and to the said Infants the remaining third part, which premisses were the Inheritance of James Townsend late of Boston deceased. and the said Parties are Seized in like proportions of the Reversions, in Fee after the Death of Charles Chauncey of Boston aforesaid Clerk of one Messuage and Land adjoining in Marlborough Street, and of a peice of Land in Rawsons Lane, which last premisses was the Estate of Elizabeth Chauncey late Wife of the said Charles. and it is found impracticable to divide the premisses among the Interested without taking the two distinct Inheritances aforesaid together, which cannot be done without the aid of this Court; and the said William Blair and John Winthrop, Guardian of the said Minors have Petitioned this Court praying their Aid.

Be it therefore Enacted, by the Governor, Council, and House of Representatives,

That the Judge of Probate for the County of Suffolk be and hereby is enabled to appoint five Freeholders of the County of Suffolk to make Division of the two several premisses aforesaid, considered as one Estate among the Interested in the proportions aforesaid, and their Return being accepted by the said Judge shall be deemed as Valid, and equally conclude all Parties as any other Divisions of Land made by Virtue of the Laws of this Province already in force. *Provided always* that either party being aggrieved at the Decree of the said Judge confirming the Division made as aforesaid may have like Remedy of appeal, as in other cases is allowed. [*Passed April 24, 1758.*]

PRIVATE ACT,

PASSED 1760-61.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIFTH DAY OF MARCH, A.D. 1761.

[No. 89.]

AN ACT TO ENABLE THE EXECUTORS OF THE LAST WILL AND TESTAMENT OF SIR WILLIAM PEPPERRELL BARONET DECEASED, AND THE OTHER PROPRIETORS OF CERTAIN TRACTS OF LAND IN THE TOWNSHIP[S] OF BIDDEFORD AND SCARBOROUGH TO SUE FOR ANY TRESPASSES COMMITTED UPON SAID TRACTS OF LAND WITHIN FIVE YEARS PRECEEDING THE PRESENT SESSION OF THIS COURT, IN THE PRESENT COUNTY OF YORK —

WHEREAS Sir William Pepperrell Baronet was in his Life time and at the time of his decease s[ies][eiz]ed in Fee of divers Tracts of Land in the Townships of Bid[d]eford and Scarborough, and among others of a certain Tract commonly called the Upperche[c]ker of Foxwell's Patent, part in severalty, and part in common and undivided with other Proprietors.

Preamble.
Engrossment.
Bill in Mass.
Archives, xix.,
714.
Printed in Mass.
Perpetual
Laws (ed. of
1759), p. 403.
Province Laws,
iv., 436, note.

And whereas it is alledged that there have been many Trespases committed upon the Premises within a few years past, and the County of York has been lately divided into three Counties, and part of the Premises may fall within the County of Cumberland, and many difficulties are in the way of prosecuting Suits for said alledged Trespases as the Law now stands, and for some of them it may be impossible to obtain Justice without the aid of a special Act of this Province —

Be it therefore Enacted by the Governor, Council and House of Representatives

that any Action or Actions of Trespass[es] for any trespass or Trespases committed within five years preceeding the present Session of this Court upon any Tracts of Land in the Towns of Bid[d]eford and Scarborough or either of them, whereof the said Sir William Pepperrell was at the time of his decease sei[s][z]ed in severalty or in common and undivided with other Proprietors shall and may be prosecuted and maintained in the present County of York by the Executrix of the last Will and Testament of the said Sir William Pepperrell or the Guardians to the Heirs or Devisees of the said Sir William Pepperrell where he was sei[s][z]ed in severalty, or jointly by them with others, where he was sei[s][z]ed in common and undivided in the same manner to all intents and purposes as if there had been no division of the late County of York. [Passed April 18.]

Actions to be
brought in the
County of York.
Mass. Archives,
xix., 710-713.
Legislative Rec-
ords of the
Council, xxiii.,
635, 648, 677.
Journals of the
House of Rep-
resentatives,
1761, March 28;
April 9. York
Probate Rec-
ords, July 18,
1732. York
Inf. Court of
Common Pleas,
April Term,
1762.

"Trade Papers," vol. 63, p. 349; vol. 64, p. 184; in Public Record Office, London.
"Acts, Board of Trade," No. 239, in Public Record Office, London. "Mass.
Bay, Board of Trade," vol. 78, L. 1. 25, 31, in Public Record Office, London.

PRIVATE ACT,

PASSED 1761-62.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE FOURTEENTH DAY OF APRIL, A.D. 1762.

[No. 90.]

AN ACT FOR ENABLING MARY HUNT TO DISPOSE AND CONVEY HER LANDS AND INTEREST IN HOLDEN

WHEREAS Mary Hunt upon her complaint of Cruel Usage from her Husband Richard Hunt, was on the Fourteenth day of February 1761, by Decree of the Governor and Council seperated from him as to bed and Board and sufficient Alimony was by said Court order'd to be paid unto her by said Richard Hunt during said seperation, as should thereafter be ascertained and that in the mean time untill such Alimony should be ascertained and ordered, the Rents and profits of the Real Estate belonging to the said Richard Hunt and Mary Hunt which were the Estate of the said Mary Hunt before her Intermarriage with the said Richard Hunt be detained for her Use and be paid to her or her Order and that the same shall not be Subject to the Power or disposition of the said Richard Hunt, and the said Mary hath by her Petition to this Court, setting forth that she had three Children by said Richard now living, who is Unable to maintain any one of them, and that she had maintained them for fifteen Months past, but was Incapable of doing it any longer, and that before her Intermarriage with the said Richard Hunt she was seized in Fee of an Interest in Lands in the Town of Holden in the County of Worcester, afterwards sett off to her in the Division of her Grandfathers Estate Containing about Eleven hundred Acres, bounded as follows viz. beginning at the North west Corner at an heap of Stones on Rutland Line, thence Southerly angling on Andrew Smiths Land three hundred and twenty seven Rods to an heap of Stones at Fish's Land, thence Southerly angling on Fishs Land five hundred and Sixty one Rods to an heap of Stones thence Southward one hundred and fourteen Rods to a red Oak Tree at Broads Land, thence Eastward angling by Broads Land one hundred and sixty six Rods to an heap of stones yet Easterly on M^r Waldoes Land and common Land Seventy six Rods to a pine Tree, then North Thirty five Degrees East, eighty one Rods to an heap of Stones a corner of Col^l Fitch's lands thence Northerly angling on land of said Fitch three hundred and forty seven Rods to an heap of Stones, thence Northwest by North one hundred and four rods to an heap of Stones, thence Northeast by East one hundred and twenty four Rods on said Fitch's Land, thence Northerly by Land of Col^l Hatch fifty five Rods to an heap of stones thence Easterly by said Hatch's land two hundred and

Disallowed by the privy council, March 16, 1763.
From the engrossment.
Bill in Mass. Archives, ix., 439.
Province Laws, iv., 640, note.
Mass. Archives, ix., 436.
Legislative Records of the Council, xxiv., 146, 193, 202.
Journals of the House of Representatives, 1761, Nov. 26; 1762, Jan. 22, 26.
Executive Records of the Council, iv., 268-270, 277, 337.
Worcester Registry of Deeds for Worcester District, book 46, p. 355.
"Mass. Bay, Board of Trade," vol. 78, L. 1. 32, 43; vol. 86, pp. 149, 160;
"Trade Papers," No. 64, p. 211; vol. 65, p. 32; "Acts, Board of Trade," No. 239, — in Public Record Office, London.

twenty rods to a black birch, thence West North West five Degrees North One hundred and twenty two Rods to an heap of Stones on Rutland line, strait where it began, one half of a Meadow Lot on the right of her said Grandfather Shores, and one half of all the after Divisions on the right of her said Grandfather after the fourth Division of Land in Holden, and one half of all other Rights and Privileges belonging to the same Right in said Holden not before herein mentioned, That since her Marriage she has sold about Three hundred Acres of it, that said Lands are Uncultivated and don't bring in any Income but are a growing Charge, by reason of Taxes, and as the Profits of said Land are by said Decree assigned her till sufficient Alimony or Seperate Maintenance can be provided for her of which there is no likelihoods, pray'd this Court that she may be authorized to sell and Dispose of her Interest in said Lands in Fee, and to execute one or more Deeds for the Conveyance thereof or any part thereof in Fee, and may receive the consideration money of such Conveyance, or Conveyances to her own use that she may put herself in some way to Maintain herself and her Children.

Be it therefore enacted by the Governor Council and House of Representatives,

That the said Mary Hunt be, and she is hereby authorized to sell and Dispose her remaining Interest in said Lands in Fee, and to Execute in her own name one or more Deeds of Conveyance thereof in Fee, and to receive the consideration Money thereof to her sole Use, and such Deeds so Executed when Acknowledged and Register'd shall have the same Force in Law, as thô: the said Mary Hunt was at the Time thereof Sole and Unmarried. [*Passed April 24, 1762.*]

PRIVATE ACT,

PASSED 1762-63.

PRIVATE ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWELFTH DAY OF JANUARY, A.D. 1763.

[No. 91.]

AN ACT CONFIRMING THE CHRISTIAN NAME OF ANN BAKER OF
DORCHESTER IN THE COUNTY OF SUFFOLK WIDOW NOTWITH-
STANDING THE MISTAKE THEREIN.

WHEREAS Ann Baker of Dorchester in the County of Suffolk Widow, hath petitioned this Court setting forth, that both her Parents being of Boston in this Province, dying when the Petitioner was very young, they who had the Care of her Education taught her to call her self by the Christian Name of Ann, and always called her so themselves ; That by the same Name Guardianship was granted for her, and Suits commenced by her said Guardian, and by the same Name the Petitioner on the twenty sixth Day of July *Anno Domini* One Thousand seven Hundred and thirtynine was intermarried with Thomas Baker of Dorchester since deceased ; and by the same Name she has suffered within four Years past a common Recovery ; when in Fact and Truth as the Petitioner has lately discovered she was baptized at Boston the sixteenth of April *Anno Domini* One Thousand seven Hundred and twenty one by the name of Sarah ; and thereupon praying this Court that the said name of Ann may be confirmed to her, and all Doubts touching the Validity of Acts done and suffered by her in that Name may be taken away by the Authority of this Court.

From the engrossment. Province Laws, iv., 624, note. Legislative Records of the Council, xxiv., 591, 596, 627. Journals of the House of Representatives, 1763, Jan. 19; Feb. 10, 11, 15. "Mass. Bay, Board of Trade," vol. 78, L. 1. 50; "Acts, Board of Trade," No. 239; "Trade Papers," vol. 66, pp. 186, 264, — in Public Record Office, London.

Be it therefore enacted by the Governor, Council and House of Representatives,

That the said Name of Ann be, and hereby is confirmed to the Petitioner ; and all Acts heretofore done or suffered by the Petitioner, or hereafter to be done or suffered by her in the said name of Ann are hereby declared to be valid to all Intents and Purposes as if the Petitioner had been baptized by the said name of Ann. [*Passed February 17 ; published February 26, 1763.*]

[No. 92.]

AN ACT TO ENABLE FAITH COOKSON WIFE OF OBADIAH COOKSON TO
MAKE SALE OF CERTAIN LANDS IN THE TOWNSHIP OF RUTLAND
SET OFF TO HER PURSUANT TO THE WILL OF HER LATE FATHER
CORNELIUS WALDO ESQ^r;

From the en-
grossment,
Province Laws,
iv., 624, note.
Legislative Rec-
ords of the
Council, xxiv.,
478, 564, 576, 583,
605, 612, 627.
Journals of the
House of Rep-
resentatives,
1762, Sept. 11;
1763, Feb. 7, 10,
15, 18, 21. Suf-
folk Probate
Files, 10482.
Worcester Reg-
istry of Deeds
for Worcester
District, book
48, p. 54; book
49, p. 466.
"Mass. Bay,
Board of
Trade," vol. 78,
L. 1. 50; "Acts,
Board of
Trade," No.
239; "Trade
Papers," vol.
66, pp. 186, 204,
—in Public
Record Office,
London.

WHEREAS Cornelius Waldo late of Boston Esq^r did by his last Will and Testament duly proved and approved after other Legacies devise to his Daughter Faith Cookson then and still under Covert with Obadiah Cookson one Eighth share of the residuary part of his Estate, which was accordingly set off to her in part by certain Lots or parcels of Land lying in the Township of Rutland, which lands are wholly unimproved and yield no income or Profit: And the said Obadiah and Faith having lived separte for divers Years past and continuing so to do by means whereof the support of herself and children lyes altogether upon the said Faith, and she having by her Petition to the General Court prayed that she may be enabled to make sale of the Lots or parcels of land so devised and assigned to her. And the said Obadiah having been duly notified of the said Petition and having offered no reasonable objection thereto.

Be it therefore enacted by the Governor, Council and House of Representatives;

That the said Faith Cookson Wife of Obadiah Cookson aforesaid, be and hereby is empowered and enabled to sell and dispose of all and any Part of such Lots or Parcels of Land in Rutland aforesaid as may have been set off to her in part of her Eighth share of the residuary part of the Estate of her said late Father Cornelius Waldo Esq^r pursuant to his said last Will in such manner, for such Term, and such Proportion as she may think most convenient and proper, and to make and Execute any Deed or Deeds for the conveyance and assuring the same, her said Coverture with the said Obadiah notwithstanding. [*Passed February 24; published February 26, 1763.*]

[No. 93.]

AN ACT TO ENABLE THE SURVIVING EXECUTORS OF EDWARD JACKSON GENTLEMAN DECEASED TO DISPOSE OF PART OF HIS REAL ESTATE IN SHUTESBURY IN THE COUNTY OF HAMPSHIRE.

WHEREAS Daniel Marsh, Samuel Sewall, and Thomas Cushing surviving Executors of the last Will and Testament of Edward Jackson late of Boston deceased have by their Petition to this Court set forth that the said Edward in his Will ordered all his Real Estate to be sold except his Lands in Road Town, and that he had some Years before his Death purchased about twenty five hundred Acres of Land in said Road Town now called Shutesbury in the County of Hampshire, and had afterwards taken a Mortgage of about five Thousand Acres more which lay in common and undivided with said purchase, that his Executors since his Death having been obliged to sue out said Mortgage, hold the Land in common and undivided with the said purchased Land, which they are restrained from selling as above, whereby the circumstances of the Estate necessitating them to sell or convey to others Part of the said Lands, and there being no way to divide, they are put to great difficulty: And that the Term of three Years only, from the first of July 1761, being allowed to compleat the Terms of the Original Grant by an Act of the General Court, the said Lands may be exposed to a Forfeiture, as it is not likely the required Duty can be done within the Time yet remaining of said Term, which circumstance will impede the Sale of any Part of the Land, and retard any advances to the settlement of the rest, notwithstanding they Cost their Testator a large sum of Money, and considerable sums had been paid by him in his life time as well as by his Executors since his Death, in Taxes and otherwise. But that as the Executors have got over some Incumbrances which have heretofore delayed the settlement of these Lands the above Embarrassments being also removed, they doubted not the Duty on said Lands would be immediately forwarded, and as soon as possible compleated, therefore the said Executors prayed that this Court would enable and empower them so far in the discharge of their Trust as to sell and convey any Part or Parts, Lot or Lots of said Land in as legal and authentic a manner as if the said part or parts Lot or Lots by them Conveyed were parcel of the said Mortgaged Lands legally divided from the Original Purchase aforesaid and held in severalty. *Provided nevertheless* that there be reserved out of the whole Tract of seven thousand five hundred Acres aforesaid such and so much Land as shall be equivalent in quantity and Quality to the twenty five hundred Acres purchased by the Testator as aforesaid, to remain unsold and to be disposed according to his said Will. And that there might be a further time granted for the compleating the Terms of the Original Grant of said Land,

And Whereas all Parties interested in the premisses have Signified their desire and consent that the Prayer of the said Executors may be granted in manner aforesaid.

Be it therefore enacted by the Governor, Council and House of Representatives;

That the aforesaid Executors be hereby Enabled and Authorized to sell and convey any Part or Parts, Lot or Lots of said Lands in as legal and authentic a manner as if said Part or Parts, Lot or Lots were par-

From the engrossment.
Province Laws, iv., 624, note.
Legislative Records of the Council, xxiv., 627. Journals of the House of Representatives, 1763, Jan. 20; Feb. 3, 8-10, 12, 15, 16. Suffolk Probate Files, 11560.
"Mass. Bay, Board of Trade," vol. 75, L. 1. 50; "Acts, Board of Trade," No. 239; "Trade Papers," vol. 65, pp. 186, 264, — in Public Record Office, London.

cel of said Mortgaged Lands legally divided from the Original purchase aforesaid, and held in Severalty: and to execute a Deed or Deeds thereof in Fee accordingly, and that such Deed and Deeds shall be valid in Law to pass the said Interest in Fee.

Provided nevertheless that there be reserved out of the whole Tract of seven thousand and five hundred acres aforesaid, such and so much Land as shall be equivalent in quantity and Quality to the twenty five hundred Acres purchased by the Testator as aforesaid, to remain unsold, and to be disposed according to his said Will. And that the further Time of three Years be allowed for completing the Terms of the Original Grant of said Lands — [*Passed February 24; published February 26, 1763.*]

PRIVATE ACTS,

PASSED 1764-65.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT CONCORD, ON THE THIRTIETH DAY OF MAY, A.D. 1764.

[No. 94.]

AN ACT TO ENABLE ABIGAIL LITTLE OF PEMBROKE, FORMERLY THE WIDOW OF ISAAC THOMAS LATE OF SAID PEMBROKE GENTLEMAN DECEASED, TO RECOVER OF THE CHILDREN AND HEIRS OF THE SAID ISAAC CERTAIN SUMS OF MONEY DUE FROM THEM TO THE SAID ABIGAIL FOR RIGHT OF DOWER IN THE REAL ESTATE THAT WAS THE SAID ISAAC THOMAS'S.

WHEREAS on the thirty first Day of July, in the Year of our Lord One Thousand seven Hundred and thirty two, there was an Agreement in Writing made between the said Abigail Little, then called Abigail Thomas, and the Guardians to Edward Thomas, Mary Thomas, Ruth Thomas, Isaac Thomas and Abigail Thomas, Children and Heirs of Isaac Thomas aforesaid Deceased; to this Effect, Viz^t, that the said Abigail Little should convey to the Children and Heirs aforesaid, all her Right of Dower in the real Estate of her said Husband Isaac Thomas, Viz^t one third Part thereof to the said Edward Thomas, and one sixth Part thereof to each of the other Children beforenamed; and that in Consideration thereof, the said Edward Thomas, Mary Thomas, Ruth Thomas, Isaac Thomas and Abigail Thomas, should pay to the said Abigail Little the sum of Forty five Pounds in current Money, or Bills of Credit at or before the fifteenth Day of November then next, and the like Sum of Forty five Pounds in like Specie on or before the fifteenth Day of November Yearly, and every Year then following during her natural Life, in the following Proportion, Viz^t, one Third of the said Sum by the aforesaid Edward Thomas, and the other two Thirds by the said Mary, Ruth, Isaac and Abigail:

And whereas the said Abigail Little then Abigail Thomas, did on the said thirty first Day of July in the Year of our Lord One Thousand seven Hundred and thirty two, by her Deed duly executed and recorded, grant and convey her Right of Dower aforesaid to the Children and Heirs aforesaid, according to the said Agreement, and they now hold the same:

And whereas some of the Children Heirs of the said Deceased, Viz^t Edward Thomas, Josiah Cushing and Ruth his Wife, Benjamin Jacobs and Mary his Wife, ever since the fifteenth Day of November One Thousand seven Hundred and fifty, have utterly refused to pay the said Abigail any Thing more for her Right of Dower aforesaid, and the agreement aforesaid having been adjudged insufficient in Law to recover the same. Therefore,

Disallowed by the privy council, June 26, 1767.

From the engrossment. Province Laws, iv., 782, note.

Mass. Archives, xix., 776. Legislative Records of the Council, xxiv., 528; xxv., 29, 31, 103, 124, 234, 265. Journals of the House of Representatives, 1763, Jan. 27; June 2, 4; Dec. 29; 1764, Jan. 12; June 4, 12, 14. Plymouth Probate Records, vol. 6, pp. 30, 31, 158, 211; vol. 19, pp. 349-352. "Mass. Bay, Board of Trade," vol. 77, M. m. 55; vol. 78, L. 1. 77; vol. 79, M. m. 7, 55; "Acts, Board of Trade," vol. 240; "Plantations General, Board of Trade," vol. 42, p. 91, — in Public Record Office, London.

Be it enacted by the Governor, Council and House of Representatives,

That the said Abigail Little be, and hereby is empowered to sue for, demand and recover of the said Edward Thomas and Josiah Cushing of Pembroke and Ruth his Wife, heretofore Ruth Thomas, and Benjamin Jacobs of Scituate and Mary his Wife, heretofore Mary Thomas, which said Josiah and Benjamin have since intermarried with the said Ruth and Mary Thomas, Children and Heirs as before-mentioned, such a Sum of Money as shall be equivalent to their Proportion of Forty five Pounds a Year in the then current Bills of Credit on this Province, being the Sum she was Yearly to have been paid by them, for her Right of Dower as aforesaid, from the fifteenth Day of November one Thousand seven Hundred and Fifty, until the fifteenth Day of November one Thousand seven Hundred and Sixty four, namely, one third Part of said Forty five Pounds from the said Edward Thomas; One sixth Part thereof from the said Josiah Cushing and Ruth his Wife; one sixth Part thereof from Benjamin Jacobs and Mary his Wife.

And be it further enacted,

That if the said Edward Thomas, Josiah Cushing and Ruth his Wife, Benjamin Jacobs and Mary his Wife, shall after the said fifteenth Day of November, one Thousand seven Hundred and Sixty four, upon Demand made by the said Abigail Little, neglect or re[^{*}fuse to g^{*}]ive the said Abigail Little Security for the Payment of their Proportion aforesaid of a Sum equal to the said Forty five Pounds Yearly, during her natural Life; in that Case the Judge for the Probate of Wills &c in and for the County of Plymouth, on Application to him made, is hereby empowered and directed. to assign and set off to the said Abigail her Right of Dower in the real Estate of her said late Husband Isaac Thomas, that was assigned to the said Edward Thomas, Josiah Cushing and Ruth his Wife, Benjamin Jacobs and Mary his Wife, who are the Children and Heirs refusing as aforesaid, having Regard to the Improvement made on the same, since the Death of her said Husband Isaac Thomas; and the said Abigail is hereby empowered to hold the same during Life, her Deed thereof to the said Children and Heirs as aforesaid notwithstanding. [*Passed June 14.*]

* Engrossment illegible.

PRIVATE ACT,

PASSED 1765-66.

[199]

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-NINTH DAY OF MAY, A.D. 1765.

[No. 95.]

AN ACT IMPOWERING PETER HALLET TO MAKE AND EXECUTE A
DEED OF EXCHANGE WITH STEPHEN HALLET, OF CERTAIN LANDS
LYING IN YARMOUTH, IN THE COUNTY OF BARNSTABLE.

WHEREAS it appears to this Court that John Hallet, late of Yarmouth, in the County of Barnstable, deceased, in his Life Time, and Stephen Hallet of the same Town, did agree to Exchange some Lands with each other, as follows: The said Stephen agreed that the said John by way of Exchange should have of said Stephen's Land, a certain piece of Wood Land, containing about eight Acres adjoining to said John's Farm in Yarmouth aforesaid; and the said John agreed that the said Stephen by way of Exchange for the eight Acres aforesaid, should have of the said John's Land, one quarter Part of a small Cedar Swamp, lying in Yarmouth aforesaid; and immediately upon this Agreement, which was made in the Year One Thousand seven Hundred and fifty-seven, the said Stephen and John took Possession of the Lands by them Exchanged; but so it happened that the said John died before any Deeds of Exchange were made between them; and Application being made by the said Stephen, and Peter Hallet, Executors of the last Will and Testament of the said John, to this Court, that the said Peter may be enabled and empowered in his said Capacity to make and Execute a good Deed of Exchange with the said Stephen of the Land beforementioned. Wherefore,

Be it enacted by the Governor, Council, and House of Representatives,

That Peter Hallet, one of the Executors of the last Will and Testament of John Hallet, late of Yarmouth in the County of Barnstable, deceased, be, and he is hereby fully authorized and empowered to make and Execute a good Deed of Exchange of one quarter Part of a small Cedar Swamp, lying and being in Yarmouth aforesaid, belonging to his Testator John Hallet, deceased, with Stephen Hallet of the same Town, for eight Acres of Wood Land, adjoining to the said John's Farm lying in Yarmouth aforesaid, belonging to said Stephen; and the said eight Acres upon passing the said Deeds of Exchange, shall be accounted as Part and Parcell of the Real Estate of the said John deceased; and shall be divided among his Legatees according to his last Will and Testament; and the said Cedar Swamp shall be, and belong to Stephen Hallet, his Heirs and Assigns. [*Passed June 12; published June 25.*]

Preamble.
No engrossment.
From Mass. Temporary Laws, 1736 to June 17, 1774 (ed. of 1763 and supplements), p. 280.
Province Laws, iv., 859, note.

Peter Hallet empowered as executor of the last will of John Hallet to execute a deed of exchange with Stephen Hallet.
Journals of the House of Representatives, 1765, June 6, 10, 12. Legislative Records of the Council, xxvi., 21, 23. Barnstable Probate Records, vol. xii. "Mass. Bay, Board of Trade," vol. 78,

L. 1. 94; vol. 79, M. m. 55; in Public Record Office, London. "Acts, Board of Trade," No. 240, in Public Record Office, London. "Trade Papers," vol. 67, p. 259; vol. 69, p. 48; in Public Record Office, London.

PRIVATE ACT,

PASSED 1766-67.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 1766.

[No. 96.]

AN ACT TO ENABLE WILLIAM PEPPERRELL SPARHAWK ESQ^r TO
TAKE THE NAME OF WILLIAM PEPPERRELL.

WHEREAS the late Sir William Pepperrell Baronet, in and by his last Will and Testament, gave and devised to his Grandson William Pepperrell Sparhawk Esq^r the greatest part of his Real and Personal Estate on Condition that he should take on him by Authority of the General Court, if to be obtained, the name of William Pepperrell.

Be it therefore Enacted by the Governor, Council and House of Representatives,

That the said William Pepperrell Sparhawk be enabled, and he is hereby enabled to take upon himself the name of William Pepperrell; And all Acts hereafter to be executed by the said William Pepperrell Sparhawk, or for the Benefit of him, his Heirs and Assigns in or by the Name of William Pepperrell, are hereby declared to be as good and valid as those heretofore made in or by the Name of William Pepperrell Sparhawk. [*Passed June 18.*]

From the engrossment.
Bill in Mass. Archives, lxxxviii., 148.
Province Laws, iv., 924, note.

Journals of the House of Representatives, 1766, June 6, 14, 17. Legislative Records of the Council, xxvi., 250, 254.
"Mass. Bay, Board of Trade," vol. 79, M. m. 52, 68, in Public Record Office, London.

"Acts, Board of Trade," vol. 240, in Public Record Office, London. "Trade Papers," vol. 68, p. 426, in Public Record Office, London.

PRIVATE ACT,

PASSED 1767-68.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SEVENTH DAY OF MAY, A.D. 1767.

[No. 97.]

AN ACT TO EMPOWER ABIGAIL CONQUERET OF LANCASTER IN THE COUNTY OF WORCESTER WIFE OF LEWIS CONQUERET MARINER, TO COMMENCE AND PROSECUTE TO FINAL JUDGMENT AND EXECUTION, CERTAIN ACTION OR ACTIONS AGAINST FRANCIS MORRIS AND THOMAS LEGGET OF LEOMINSTER IN SAID COUNTY, AND FOR SUB-JECTING THE SAID ABIGAIL CONQUERET TO THE ACTION OR ACTIONS OF THE SAID FRANCIS MORRIS AND THOMAS LEGGET, AS THOUGH SHE WAS SOLE AND UNMARRIED.

WHEREAS the said Abigail Conqueret of Lancaster in the County of Worcester, has represented to this Court, that her Husband Lewis Conqueret went to Sea in the Year One Thousand seven Hundred and fifty eight, and that she has never seen him since; and that she has heard nothing of him for four Years last past; and that in the Month of October *Anno Domini* One Thousand seven Hundred and sixty five, she suffered two grievous Assaults and Batteries, one from one Francis Morris of Leominster in the said County of Worcester; and another from one Thomas Legget of the same Town, which brought on her a Fever and other Disorders, under which she languished for more than six Months then next following; and that she has not been able to recover her former Health to this Time; and that although she has suffered great Pains, and been subjected to great Expence, Damage and Loss by means of the Injuries and Abuses aforesaid; and though she and the said Thomas Legget have mutually submitted to the Award of judicious indifferent Persons her Right to a Recompence against him for the Damages she sustained by the Assault and Battery aforesaid by him committed upon her, and the said arbitrators have made an award in her Favour; yet the said Thomas Legget refuses to abide by and perform the same — and as the said Lewis Conqueret, the Husband of the said Abigail (if living) is in foreign Parts unknown to the said Abigail, and no Person in this Province empowered to bring any Actions in his Behalf:

And whereas it is apprehended the said Abigail in these Circumstances cannot maintain Actions in her own Name in the Cases aforesaid, or any other, without the aid of this Court:

Be it enacted by the Governor, Council and House of Representatives,

That the said Abigail Conqueret be, and hereby is empowered in her own Name to commence and prosecute to final Judgment and Execution, any personal Action or Actions against the said Francis Morris

Disallowed by the privy council, June 29, 1763.

From the engrossment. Bill in Mass. Archives, xlv., 630.

Province Laws, iv., 994, note.

Mass. Archives, xxii., 518-523;

xliv., 626, 628.

Journals of the House of Representatives,

1767, June 11, 17, 22-23.

Legislative Records of the Council,

xxvii., 103, 111.

Executive Records of the Council, xvi.,

348.

"Mass. Bay, Board of Trade," vol. 80,

N. n. 9; vol. 86,

p. 273; "Acts, Board of Trade," No.

241; "Trade Papers," vol. 70,

p. 33, — in Public Record Office, London.

and Thomas Legget, each or either of them that hath arisen or may arise from the Assaults & Batteries afores^d or upon any Bond of submission in consequence thereof in the same manner the said Abigail Conqueret might have done was she sole and unmarried; and as she might do had she been *Feme sole* and unmarried ever since the last Day of September, One Thousand seven Hundred and sixty five: And the said Abigail Conqueret is hereby fully empowered after commencing any Action or Actions as aforesaid to release, discharge or submit to Reference any such Action or Actions, and to do and perform all such Acts and Things relating thereto, which she might do if she were sole and unmarried; which Acts so done by her before the Return of her Husband, shall be good and valid in Law; and his Majesty's Courts of Justice, and Justices of the Peace respectively, before whom such Action or Actions may be brought, are hereby empowered to enter up Judgment, and award Execution accordingly: And in Case on the Trial of such Action or Actions Judgment shall be rendered for the Defendant or Defendants to recover his or their Costs, the said Courts or Justices of the Peace, are hereby empowered to tax Costs for the Defendant against the said Abigail, for the securing the Payment of which Costs; and for preventing the said Abigail from commencing any causeless and vexatious Action or Actions by Virtue of this Act.

Be it further enacted, and provided,

That when and so often as the said Abigail, shall by Virtue of this Act commence any Action against either of the said Persons, she shall at the Purchase of such original Writ, procure to be made and executed to the Defendant therein named a Bond under Hands and Seals of two Obligors of sufficient Ability; and in a penal Sum sufficient in the Judgment of the Court of Justice, before whom such action shall be brought, with Condition for paying the Cost that may be taxed, and responding and satisfying the Judgment that may be given against her as aforesaid, which Bond shall be lodged in the Clerk's Office of the Court, or with the Justice respectively before whom such Action shall be; and upon the Defendant's first Appearance in such Cause shall be delivered to him for his Security, if requested; otherwise the said Abigail's Writ shall abate, and the Defendant have Judgment against her for his Costs, to be levied on the Goods and Chattles of the said Lewis in her Hands (if any such there be) and in Want thereof on her the said Abigail's Body.

And be it further enacted,

That the said Francis Morris and Thomas Legget, or either of them, be and are hereby empowered to commence and bring any Action or actions against the said Abigail Conqueret, that have any relation to the Assaults & Batteries aforesaid or that might arise therefrom as he or they might have done, had she been sole and unmarried. [*Passed June 25.*]

PRIVATE ACT,

PASSED 1771-72.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT CAM-
BRIDGE, ON THE EIGHTH DAY OF APRIL, A.D. 1772.

[No. 98.]

AN ACT TO CHANGE THE CHRISTIAN NAME OF WILLIAM CLARK TYLER
FROM WILLIA[M CLARK TO ROYALL*].

WHEREAS it has been represented to this Court that it would be much for the advantage of William C[lark Tyler*] a minor, Son of Royall Tyler late of Boston Esquire deceased if his Christian name might be changed from Willi[am Clark*] to Royall :

Be it therefore Enacted by the Governor, Council and House of Representatives,

That the Christian [name*] of the said William Clark Tyler be, and it hereby is accordingly changed from William Clark to Royall ; and all a[cts hereafter*] to be executed by him, or in his behalf, during his Minority, and by him, after he shall have arrived at full age, [in or by the*] name of Royall Tyler, are hereby declared to be as good and valid in Law, as if his Christian name had not been [changed*] in manner as aforesaid. [*Passed April 23, 1772.*]

65; vol. 82, P. p. 66; "Acts, Board of Trade," vol. 243; "Trade Papers," vol. 74, pp. 121, 132; vol. 75, pp. 62, 64, — in Public Record Office, London.

* Engrossment mutilated.

From the engrossment.
Bill in Mass. Archives, lxxxviii., 151.
Province Laws, v., 181, note.
Mass. Archives, lxxxviii., 150.
Legislative Records of the Council, xxix., 188, 202. Journals of the House of Representatives, 1772, April 21-23. "Mass. Bay, Board of Trade, vol. 81, O. o. 36, 37, 39,

PRIVATE ACT,

PASSED 1772-73.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT CAMBRIDGE, ON THE TWENTY-SEVENTH DAY OF MAY, A.D. 1772, AND HELD, BY ADJOURNMENT, AT BOSTON, ON THE SIXTEENTH * DAY OF JUNE FOLLOWING.

[No. 99.]

AN ACT FOR CHANGING THE CHRISTIAN NAME OF WILLARD WHEELER FROM WILLARD, TO WILLIAM WILLARD.

WHEREAS it has been represented to this Court by Willard Wheeler of George Town in the County of Lincoln Clerk that it would be of great advantage to him were his Christian name changed from Willard to William Willard; and hath thereupon supplicated this Court that the same may be changed accordingly.

Be it therefore Enacted by the Governor, Council and House of Representatives

That the Christian name of the said Willard be, and the same is hereby changed from Willard to William Willard, and that the name William Willard only shall henceforth be deem'd to be the Christian or forename of the said Wheeler, and shall be so adjudged in Law, and for every other purpose whatsoever — [*Passed July 14.*]

Office, London. "Trade Papers," vol. 74, p. 184; vol. 75, pp. 8, 10, 11, 128; in Public Record Office, London.

* Erroneously printed "eleventh" in the sessions-acts.

From the engraving.
Province Laws, v., 259, note.
Legislative Records of the Council, xxix., 284, 289. Journals of the House of Representatives, 1772, June 19, 22. "Mass. Bay, Board of Trade," vol. 54; vol. 81, O. o. 47, 48, 64; vol. 82, P. p. 10; in Public Record

PRIVATE ACT,

PASSED 1773-74.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-SIXTH DAY OF MAY, A.D. 1773.

[No. 100.]

AN ACT TO ENABLE BUNKER SPRAGUE OF MALDEN IN THE COUNTY
OF MIDDLESEX TO TAKE THE NAME OF EBENEZER HARNDEN

WHEREAS Bunker Sprague of Malden in the County of Middlesex hath represented to this Court that it would be of great advantage to him were he enabled to take the name of Ebenezer Harnden; and hath humbly supplicated this Court that he may be enabled to take the same accordingly.

Be it therefore enacted by the Governor, Council & House of Representatives

That the said Bunker Sprague be enabled, and he is hereby enabled to take upon himself the name of Ebenezer Harnden, and all Acts hereafter to be executed by the said Bunker Sprague, or for the benefit of him, his Heirs and assigns in or by the name of Ebenezer Harnden are hereby declared to be as good and valid as those heretofore made in or by the name of Bunker Sprague. and that for the future the s^d, Bunker Sprague shall be called distinguished & known by the name of Ebenezer Harnden in all proceedings & to all intents & purposes whatsoever
[Passed June 22.]

No engrossment.
From the bill, in Mass. Archives, lxxxviii., 163.
Province Laws, v., 346, note.
Mass. Archives, lxxxviii., 152.
Journals of the House of Representatives, 1773, June 3, 8, 10, 22. Legislative Records of the Council, xxx., 57, 64.
"Mass. Bay, Board of Trade," vol. 82, P. p. 16, 66, in Public Record Office, London.

PRIVATE ACT,

PASSED 1778-79.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE SIXTEENTH DAY OF SEPTEMBER, A.D. 1778.

[No. 101.]

AN ACT FOR NATURALIZING PETER LANDAIS ESQ[UIRE].

WHEREAS Peter Landais late of S^t Mal[e]o's in the Kingdom of France Esq^r has left his native Country and has generously and gallantly taken a Part with the Friends of America in Opposition to the cruel Efforts of Great Britain to subjugate the Inhabitants of these United States to it's Tyrannical Authority —

And Whereas it is just to reward such Persons who have thus voluntarily taken a Part in our Defence and expedient to Encourage such well disposed Foreigners to join themselves to us. —

Be it Enacted by the Council and House of Representatives in General Court assembled and by the Authority of the same

that upon the taking and Subscribing the Oath of Allegiance appointed by an Act made in the Year of our Lord one thousand seven hundred [&] [and] seventy seven entitled an "Act for prescribing and establishing an Oath of Fidelity and Allegiance" by the said Peter Landais he the said Peter Landais shall from the Time of taking and Subscribing said Oath before any two of the Members of the Council of this State be deemed adjudged and taken to be a natural Subject of this State to all Intents Constructions and Purposes as if he the said Peter Landais had been Born within this State and had continued and dwelt therein from the Time of his Birth and been here abiding on the fourth Day of July in the Year of our Lord one thousand seven hundred [&] [and] seventy six. and had at that Time and ever since taken a Part with and been aiding the Inhabitants of this State in Defence of their Liberties —

And be it further Enacted by the Authority aforesaid

that if the said Peter Landais shall take and Subscribe the Oath aforesaid before any two of the Council of this State the Persons before whom he shall take and Subscribe the said Oath shall make return thereof to the Secretary who shall record the same in a Book to be kept among the public Records of this State for the Purpose of Recording the Names of such Foreigners as shall be hereafter naturalized by Acts of this State. — [Passed October 15.]

Preamble
Engrossment.
Bill on file in
the office of the
Secretary.
Printed in Laws
of Massachu-
setts, 1778, p.
200.
Province Laws,
v., 972, note.

To take the
oath of alle-
giance, etc., and
to subscribe the
same.

Legislative Rec-
ords of the
Council, xxxix.,
8. Journals of
the House of
Representa-
tives, 1778, Oct.
6, 12, 13, 15.
Minutes of the
General Court,
1778, Oct. 13-15.

The secretary
to record the
said oath.

PRIVATE ACT,

PASSED 1779-80.

PRIVATE ACT

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE NINTH DAY OF MARCH, A.D. 1780.

[No. 102.]

AN ACT FOR DISSOLVING THE MARRIAGE OF PHILIP TURNER AND MERCY TURNER

WHEREAS an unhappy Marriage some Years since took Place between Philip Turner of Scituate in the County of Plymouth Yeoman and Mercy Turner, and the said Mercy having suggested that the said Philip Turner has ever since the first Month after the said Marriage withdrawn himself from her Society and absented himself from her Bed, neglected to support and maintain her, [&] [and] utterly refuses further to cohabit with her, or in any Respect treat her as a Wife, and she having further suggested that during the short time of his Cohabitation with her he had no Knowledge of her as a Wife tho' [ugh] he made Attempts for that Purpose, and she from thence concludes that he is incapable of performing the Rites of Matrimony which he has himself acknowledged to be true, all which upon Examination appearing to be true and that the said Marriage having probably never been consummated. —

Be it therefore Enacted by the Council and House of Representatives in General Court assembled and by the Authority of the same

that notwithstanding the Formalities of Marriage have taken Place between the said Philip and the said Mercy the same Marriage shall be and is hereby declared to be from the Beginning utterly void. and that the said Philip shall not have or hold any Part of the Estate that now is or hereafter may be the said Mercy's nor any Claim to or Interest therein nor shall the said Mercy have or hold any Part of the Estate that now is or hereafter may be the said Philip's nor any Claim to or Interest therein but the said Philip and the said Mercy shall be considered as free from the Bands of Matrimony as if the same Marriage between them had never taken Place [Passed April 14, 1780.]

Preamble.
Engrossment.
Bill on file in
the office of the
Secretary.
Printed in Laws
of Massachu-
setts, 1780, p.
287.
Province Laws,
v., 1231, note.

The marriage
of Philip and
Mercy Turner
declared utterly
void.
Legislative Rec-
ords of the
Council, xl., 361.
Minutes of the
General Court,
1780, March 30;
April 6, 8, 12, 14.

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